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After Recording, Please Return To:

Park View at Riverwalk Condominium  
and Townhome Association, Inc.  
c/o Dan Gifford, Director  
10421 South Jordan Gateway, Suite 600  
South Jordan, Utah 84095

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GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
PRINCE YEATES & GELDZAHLER  
175 E 4TH S STE.900  
SLC UT 84111  
BY: SAM, DEPUTY - WI 73 P.

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**AMENDED & RESTATED**

**DECLARATION OF**

**COVENANTS, CONDITIONS AND RESTRICTIONS**

**OF**

**THE PARKVIEW AT RIVERWALK CONDOMINIUMS AND TOWN**

**HOMES**

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**AMENDED & RESTATED  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF  
THE PARKVIEW AT RIVERWALK CONDOMINIUMS AND TOWN HOMES,  
AN EXPANDABLE UTAH COMDOMINIUM PROJECT**

This Amended & Restated Declaration of Covenants, Conditions and Restrictions of The Parkview at Riverwalk Condominiums and Town Homes (this "Declaration") is executed as of the 23rd day of June, 2008, by PARK VIEW AT RIVERWALK CONDOMINIUM AND TOWN HOME ASSOCIATION, INC., a Utah non-profit corporation (the "Association") and D.G. DEVELOPMENT & INVESTMENT, INC., a Utah corporation, and MIDVALE 72<sup>nd</sup> PROPERTY, INC. a Utah corporation, as successor in interest to GIFFORD DEVELOPMENT COMPANY, L.L.C., a Utah limited liability company (collectively, "Declarant"). This Declaration supersedes and replaces in its entirety that certain Combined Declaration of Condominium and Planned Use Development for Parkview at Riverwalk Condominiums and Town Homes, an expandable Utah Condominium and P.U.D. Project, dated May 10, 2007, and recorded in the office of the Salt Lake County Recorder on May 10, 2007, in Book 9462, at Page 5393, as Entry No. 10095781 ("Original Declaration"), and that certain Supplemental Combined Declaration of Condominium and Planned Use Development for Parkview at Riverwalk Condominiums and Town Homes, an expandable Utah Condominium and P.U.D. Project ("Supplemental Declaration").

RECITALS:

- A. Capitalized terms in this Declaration are defined in Article I.
- B. The Declarant, as the original Declarant under the Original Declaration and as the owner of greater than 75% of the Units and membership of the Association, holds legal title to a certain tract of real property located in Salt Lake City, Salt Lake County, Utah, referred to herein as the "Property," and more particularly described in Exhibit A attached hereto and incorporated herein by this reference.
- C. The Association, by resolution adopted by Member's holding greater than a seventy-five percent (75%) interest in the Units within the Property, together with the Declarant, desire to amend and restate the Declaration of Covenants, Conditions and Restrictions of The Parkview at Riverwalk Condominiums and Town Homes as provided herein.
- D. Declarant has developed and intends to continue to develop the Property into a residential condominium project to be known as "Park View at Riverwalk Condominiums and Town Homes." It is intended that the various Units described in this Declaration will be conveyed to Owners in fee simple. The Project shall be subject to the Condominium Act, as hereinafter defined, and the Project is hereby submitted to the provisions of such Act.

NOW, THEREFORE, it is hereby declared that the Property shall be held, sold, conveyed, leased, rented, encumbered and used, subject to the following Declaration and its covenants, restrictions, limitations, and conditions, all of which shall constitute covenants which run with the land and shall be binding on and be for the benefit of the Declarant and its assigns and all owners of all or any part of the Property, including without limitation any Unit, together with their respective grantees, successors, heirs, executors, administrators', devisees and assigns, all as set forth herein.

## **ARTICLE I DEFINITIONS**

When used in this Declaration (including in that portion hereof titled "Recitals") the following terms shall have the meaning indicated:

1.1 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association which have been filed with the Utah State Department of Commerce, Division of Corporations and Commercial Code, or which shall be filed at or about the time that this Declaration is filed for record.

1.2 "Assessment Percentage" means, as to each Unit, the percentage indicated on Exhibit B attached hereto and incorporated herein by this reference.

1.3 "Association" means Park View at Riverwalk Condominiums and Town Homes Association, Inc., a Utah nonprofit corporation.

1.4 "Board of Directors" or "Board" mean the governing board of the Association which shall be appointed or elected in accordance with the Declaration, the Articles of Incorporation, and Bylaws of the Association. The Board of Directors may also be referred to in the Declaration, the Articles of Incorporation, and/or the Bylaws as the management committee.

1.5 "Bylaws" mean the Bylaws of the Association, as the same may be amended and supplemented from time to time. The Bylaws are attached hereto as Exhibit D.

1.6 "Common Areas" mean that part of the Project which is not specifically included within the Units, as may be designated in the Plat and supplements thereto, and all portions of the Project not specifically included within the individual Units and all Common Areas as defined in the Act, whether or not enumerated herein, as further described in Section 2.3 below.

1.7 "Common Expense Fund" means the fund created or to be created pursuant to the provisions of Article V and Section 5.2(A) of this Declaration and into which all monies of the Association shall be deposited. Two separate and distinct funds shall be created and maintained as part of the Common Expense Fund, one for operating expenses and one for capital expenses, provided that such separate and distinct funds shall be for accounting purposes and funds

allocated for operating expenses and capital expenses may, at the discretion of the Board, be commingled in a single account constituting the Common Expense Fund.

1.8 “Common Expenses” mean those costs and expenses arising out of or connected with the maintenance and operation of the Project and Association as described in Article V hereof and which determine the assessments made to Owners.

1.9 “Condominium” means a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Unit concerned which are used in conjunction with such residence.

1.10 “Condominium Act” means the Utah Condominium Ownership Act, UTAH CODE ANN. §57-8-1 *et seq.*, and all amendments thereto.

1.11 “Condominium Building” means a structure containing multiple Units constituting a portion of the Project, as further described in Section 2.1 of this Declaration.

1.12 “Condominium Building Exteriors” mean those portions of the Condominium Buildings which are open to the elements, such as roofs, exterior walls, exterior doors, footings, foundations, basement walls, and window wells.

1.13 “Declarant” shall mean and refer to DG Development & Investment, Inc., a Utah corporation, or any successor or assign which, either by the operation of law, or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Project as DG Development & Investment, Inc.

1.14 “Declaration” means and refer to this “Amended & Restated Declaration of Covenants, Conditions and Restrictions of Parkview at Riverwalk Condominiums and Town Homes,” including all exhibits hereto, as the same may hereafter be modified, amended, and supplemented.

1.15 “Eligible Mortgagee” means a First Mortgagee which has requested notice of certain matters from the Association in accordance with Section 11.1 of this Declaration.

1.16 “FNMA” means the Federal National Mortgage Association.

1.17 “First Mortgage” means any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.18 “First Mortgagee” means any person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage, which First Mortgage is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.19 “Governing Documents” means this Declaration, Articles of Incorporation and Bylaws for the Association, the Plat, and rules and regulations issued from time to time by the Association.

1.20 “Insurance Trustee” has the meaning given in Section 6.4(F) below.

1.21 “Limited Common Areas” mean any Common Areas designated as reserved for use by the Owner of a certain Unit or Units to the exclusion of the other Owners in the Project as further described in Section 2.4 of this Declaration.

1.22 “Manager” means the person, firm or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and Project.

1.23 “Member” means every person who holds membership in the Association.

1.24 “Mortgage” means any mortgage, deed of trust, or other document pledging any portion of a Unit or interest therein as security for the payment of a debt or obligation.

1.25 “Mortgagee” means a beneficiary of a Mortgage as well as a named Mortgagee.

1.26 “Owner” means the person or persons, including the Declarant, owning a fee simple interest in a Unit in the Project, as such ownership is shown by the official records of the Salt Lake County Recorder’s office, State of Utah. The term “Owner” shall not refer to any Mortgagee (unless such Mortgagee has obtained title in fee simple to a Unit pursuant to a judicial or nonjudicial action, including without limitation a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure) or to any person or persons purchasing a Unit under contract (until such contract is fully performed and legal title conveyed of record).

1.27 “Plat” shall mean and refer collectively to that certain condominium plat entitled "Park View at Riverwalk Phase 1 Condominiums & Townhomes, a Utah Condominium Project and Planned Unit Development" recorded with the Salt Lake County, Utah Recorder on May 10, 2007 as Entry #10095780 in Book 2007P, Page 192, and the final supplemental condominium plat entitled "Park View at Riverwalk Phase 2 Condominiums & Townhomes, a Utah Condominium Project and Planned Unit Development" recorded with the Salt Lake County, Utah Recorder on January 11, 2008 as Entry #10321196 in Book 2008, Page 9, as the foregoing may hereafter be modified, amended or supplemented. Copies of the Plat are attached hereto as Exhibit "C".

1.28 “Project” means the Property and the improvements to be constructed thereon as part of the plan of development, and the ownership of the Property created and governed by this Declaration, the Articles, and the Bylaws.

1.29 “Property” means the entire tract of real property now or hereafter covered by the Plat. A description of the real property covered by the Plat on the effective date of this Declaration is set forth in Exhibit A attached hereto and incorporated herein by this reference.

1.30 “Section” means a numbered section of this Declaration.

1.31 “Director” means a member of the Board of Directors.

1.32 “Town Home Unit” means and refers to a separate single Town Home Unit as described in Section 2.4 of this Declaration together with an undivided interest in the Common Areas and Facilities and the appurtenant right to the exclusive use of any Limited Common Areas associated with such Town Home Unit.

1.33 “Unit” means any of the separately numbered and individually described residential condominium or town home units now or hereafter shown on the Plat, as further described in Section 2.2 of this Declaration. Except where the context specifically otherwise requires, reference to a Unit shall include reference to the Condominium thereon.

## **ARTICLE II PROPERTY DESCRIPTION**

2.1 Description of the Condominium Buildings. Each Condominium Building will have three stories with no basement. Each Condominium Building will contain twelve Condominium Units, four on each story or level. Phase 1 of the Project shall consist of four (4) Condominium Buildings with twelve (12) Condominium Units each for a total of forty-eight (48) Condominium Units in Phase 1. Phase 2 of the Project will not include any Condominium Buildings. The Condominium Buildings will be constructed principally of concrete foundations with exterior walls of stone, masonry, and stucco veneer, asphalt shingle roofing, interior walls of wood studs, plywood and dry wall plaster. Each Condominium Building is supplied with electricity, water, sewage service, master cable TV, natural gas and air conditioning. All Condominium Buildings and other improvements, including reconstruction and additions, shall conform to the architectural drawings and plans approved by the City of Midvale for the construction of the Project. The Condominium Buildings and other improvements are fully depicted on the Survey Map.

2.2 Description of the Town Home Buildings. Each Town Building will have two stories with garages and fenced yards but no basement. Each Town Home Building will contain between three and five two story Town Home Units. Phase 1 of the Project shall consist of three (3) Town Home Buildings with between three (3) and five (5) Town Home Units each for a total of twelve (12) Town Home Units in Phase 1. Phase 2 of the Project shall consist of fourteen (14) Town Home Buildings with between three (3) and five (5) Town Home Units each for a total of fifty-nine (59) Town Home Units in Phase 2. The Town Home Buildings will be constructed principally of concrete foundations with exterior walls of stone, masonry, stucco veneer and/or Hardy Plank, asphalt shingle roofing, interior walls of wood

studs, plywood and dry wall plaster. Each Town Home Unit in the Town Home Building is supplied with separate electricity, water sewage, master cable TV and natural gas connections and with air conditioning. All Town Home Buildings and other improvements, including reconstruction and additions, shall conform to the architectural drawings and plans approved by the City of Midvale for the construction of the Project as defined specifically in the development agreement between the Declarant and the City of Midvale. The Town Home Buildings and other improvements are fully depicted on the Survey Map.

2.3 Description of the Condominium Units. The boundary lines of each Condominium Unit are the undecorated and unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floor, uppermost ceiling, interior surfaces of windows and doors, window frames and door frames and trim. Each Condominium Unit shall include both the portions of the Condominium Building that are not Common Areas and Facilities within such boundary lines and the space so encompassed. Without limitation, a Condominium Unit shall include all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, glass and window units, doors and door units, trim, carpeting, tile and linoleum and all systems, fixtures, or appliances found within the boundary lines of the Condominium Unit and servicing only that Condominium Unit. Exhibit "B" hereto contains a table setting forth the number designation of each Condominium Building and Condominium Unit. The Condominium Units are more particularly described in the Survey Map.

2.4 Description of the Town Home Units. The boundary lines of each Town Home Unit are the portions of the Town Home Buildings including the exterior walls, the Land under the Town Home Unit and the fenced yard space located outside of the Town Home Building that is as designated on the Survey Map as being included in the Town Home Unit. Town Home Units shall also include the garages and porches located within the exterior boundaries of each Town Home Unit. A Town Home Unit shall consist of the one or more floors or parts of floors in a Town Home Building, and the corresponding roof, exterior walls, foundations, columns, girders, beams, supports and main walls of the Town Home Building designated as a Town Home Unit. Mechanical equipment and appurtenances located within any one Town Home Unit, or located without said Town Home Unit but designated and designed to serve only that Town Home Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Town Home Unit; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, glass and window units, doors and door units, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Town Home Unit or serving only the Town Home Unit, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Town Home Unit, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Town Home Building shall be part of the Town Home Unit. A Town Home Unit shall also consist of the common wall(s) located on and constituting the property line between the Town Home Unit and the adjacent

Town Home Unit(s) (the "Party Walls") and the associated ownership and rights in said Party Walls. Exhibit "B" hereto contains a table setting forth the number designation of each Town Home Building and Town Home Unit. The Town Home Units are more particularly described in the Survey Map.

2.5 Description of Common Areas and Facilities. The Common Areas and Facilities shall include a swimming pool, club house, tot lots, parking areas, landscaping, roadways, walkways, utility systems and entries. The location and the configuration of the Improvements referred to in the foregoing sentence are depicted on the Survey Map. The Common Areas and Facilities shall mean and include: the improvements referred to above, the Land, all portions of the Project and all Property including all Limited Common Areas as herein described not contained within any Unit or Condominium Common Areas. Common Areas shall include all other parts of the Property necessary or convenient to the existence, maintenance and safety, or normally common in use, or which have been designated as Common Areas and Facilities in the Survey Map; and all repairs and replacements of any of the foregoing.

2.6 Description of Condominium Common Areas and Facilities. The Condominium Common Areas and Facilities shall include all portions of the Condominium Buildings not contained within any Condominium Unit including, but not by way of limitation: the foundations, columns, girders, beams, supports, main walls, roofs, corridors, stairs, stairways, and entrances and exits of the Condominium Buildings; installation of all central services, including power, light, water, pumps, motors, fans, ducts, and in general all apparatus and installations existing for common use; all patios, courts and driveways; any utility pipes, lines or systems servicing more than a single Condominium Unit and all ducts, flues, chutes, wires, conduits and other accessories and utility installations to the outlets used therewith; and all Limited Common Areas within the Condominium Buildings associated with the Condominium Units as herein described.

2.7 Description of Limited Common Areas. Limited Common Areas mean and include those portions of the Common Areas and Facilities reserved for the use of certain Units to the exclusion of other Units. The Limited Common Areas shall include the assigned parking spaces, Town Home driveways appurtenant to the Town Home Unit and storage areas as set forth in the Survey Map as well as balconies or patios that are immediately adjacent to or contiguous with the Units, as more particularly identified in the Survey Map. The use and occupancy of designated Limited Common Areas shall be reserved to its associated Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas. Each Condominium Unit shall have at least one parking space designated for its exclusive use as Limited Common Area.

2.8 Percentages of Undivided Interest in Common Areas and Facilities. The percentage of undivided interest in the Common Areas and Facilities appurtenant to each Unit and its Owner for all purposes, including voting, is set forth in Exhibit "B". Each Unit shall have an equal undivided interest in the Common Areas and Facilities regardless of the size or

value of the Unit.

2.9. Percentages of Undivided Interest in Condominium Common Areas and Facilities. The percentage of undivided interest in the Condominium Common Areas and Facilities appurtenant to each Condominium Unit and its Owner is also set forth in Exhibit "B". Each Condominium Unit shall have an equal undivided interest in the Condominium Common Areas and Facilities regardless of the size or value of the Condominium Unit.

### **ARTICLE III THE ASSOCIATION**

3.1 Membership. Each Owner shall be entitled and required to be a Member of the Association. Membership will begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Unit is held by more than one person, the membership appurtenant to that Unit shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Unit is held. An Owner shall be entitled to one membership for each Unit owned by such Owner. Each membership shall be appurtenant to the Unit to which it relates and shall be transferred automatically by conveyance of that Unit. Ownership of a Unit within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of such Unit shall automatically constitute a devise, encumbrance, conveyance, or other disposition of the Owner's membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a Member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Unit. The Association shall make available to the Owners, Mortgagees, and the holders, insurers, and guarantors of the First Mortgage on any Unit current copies of this Declaration, the Articles, the Bylaws, and other rules governing the Project and other books, records and financial statements of the Association. The term "available" as used in this Section 3.1 shall mean available for inspection, upon prior request, during normal business hours or under other reasonable circumstances.

3.2 Board of Directors. Until such time as the responsibility for electing the Board of Directors of the Association is turned over to the Owners, the Declarant shall have the exclusive right to appoint and remove all Directors of the Board of Directors. This exclusive right of the Declarant to appoint and remove the Directors shall terminate after the first to occur of the following:

(A) Three (3) years from the date on which the first Unit in the Project is conveyed; or

(B) One hundred twenty (120) days after seventy-five percent (75%) of the Units have been conveyed to Owners.

3.3 Personal Liability. Neither the Declarant, Declarant's affiliate, parent, or related entities (collectively "Declarant Entities"), nor any director, officer, manager, shareholder,

member or employee or agent of Declarant Entities, nor any member of the Board, officer, manager or other employee or committee member of the Association shall be personally liable to any Member, or to any other person, including the Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, negligence or other matter, of any kind or nature except for acts performed intentionally and with malice.

3.4 Votes. Each Member shall be entitled to the number of votes which are appurtenant to such Member's Unit. Each Unit shall have one (1) vote. The number of votes appurtenant to each Unit shall be permanent, and shall not change in the event an Owner modifies a Condominium to increase or decrease the size of such Unit relative to other Units. If there is more than one Owner of a particular Unit, the votes relating to such Unit shall be exercised as such Owners may determine among themselves. No Unit shall have more than one (1) vote regardless of the number of persons having an ownership interest in the Unit. The votes cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the votes attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. If such an objection is made, the votes involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists. The Declarant shall have full voting rights with respect to each Unit which it owns. For voting purposes, the Declarant shall be deemed to own Units that have not yet been constructed, but which are identified on Exhibit B, and Units that have been constructed but have not been sold to third persons, and may cast votes with respect to such Units.

3.5 Maintenance of Common Areas and Facilities. The maintenance, alteration, replacement and repair of the Common Areas and Facilities shall be the responsibility of the Management Committee and the cost thereof shall be a Common Expense. The Management Committee shall be responsible for cleaning and general maintenance of all parking areas. All incidental damages caused to a Unit by the maintenance, alteration, replacement and repair of the Common Areas and Facilities or utilities shall be repaired promptly by the Management Committee as a Common Expense.

3.6 Maintenance of Condominium Common Areas and Facilities. The maintenance, alteration, replacement and repair of the Condominium Common Areas and Facilities shall be the responsibility of the Management Committee and the cost thereof shall be a Common Condominium Expense. The Condominium Common Areas and Facilities to be maintained, altered, replaced and repaired by the Management Committee shall include but not be limited to all balconies and patios and all conduits, ducts, plumbing and wiring and other facilities for the furnishing of heat, gas, light, power, air conditioning, water and sewer that may be contained in portions of the Condominium Units, but which service part or parts of the Condominium Building other than the Condominium Unit in which they are contained. All incidental damages caused to a Condominium Unit by the maintenance, alteration, replacement and repair of the Condominium Common Areas and Facilities or utilities shall be repaired promptly by the Management Committee as a Common Condominium Expense.

3.7 Maintenance of Condominium Units. Condominium Unit Owners shall, at

their own cost and expense, maintain, repair, paint, wax, tile, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of their Condominium Units, as well as all walls, ceilings, floors, windows and doors within the boundaries thereof. In addition, each Condominium Unit Owner shall otherwise keep the interior of his Condominium Unit in good repair, in a clean and sanitary condition, and shall be responsible for the maintenance, repair or replacement of any cabinetry, plumbing fixtures, water heaters, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in or are used for his Condominium Unit, even though not within its boundaries. The Condominium Unit Owners shall keep clean and in a sanitary condition their storage areas, balconies or patios, if any.

3.8 Maintenance of Exteriors of Town Home Buildings. The maintenance, alteration, replacement and repair of the roofs and exterior walls, surfaces, exterior fences, windows and trim of the Town Home Buildings shall be the responsibility of the Management Committee and the cost thereof shall be a Common Town Home Expense. All incidental damages caused to a Town Home Unit by the maintenance, alteration, replacement and repair of the roofs and exterior walls, surfaces, windows and trim shall be repaired promptly by the Management Committee as a Common Town Home Expense.

3.9 Maintenance of Town Home Units. Town Home Unit Owners shall, at their own cost and expense, maintain, repair, paint, or otherwise refinish all walls, ceilings, floors, windows and doors within the boundaries of his Town Home Unit as well as and the Party Walls forming the boundaries of their Town Home Units. In addition, each Town Home Unit Owner shall otherwise keep the interior of his Town Home Unit in good repair, in a clean and sanitary condition, and shall be responsible for the maintenance, repair or replacement of any cabinetry, plumbing fixtures, water heaters, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in or are used for his Unit, even though not within its boundaries. The Unit Owners shall keep clean and in a sanitary condition their yard areas and yard area fencing and storage areas, balconies or patios, if any.

3.10 Right of Access for Maintenance and Repairs. The Management Committee or manager shall have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for maintenance, repair, or replacement of any of the Common Areas and Facilities or for making emergency repairs necessary to prevent damage to the Common Areas and Facilities or to another Unit or Units. Each Unit Owner or occupant shall deposit a key to the Unit with the Management Committee or manager to be used for emergency access to the Unit.

3.12 Professional Management. The Association may carry out through a property management contract or a Manager those of its functions which are properly the subject of delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the

agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Any such management agreement, employment agreement, lease of recreational or parking areas or facilities, and any other agreement to which the Declarant is a party that is executed on or before the termination of Declarant's control of the appointment of the Board of Directors as described in Section 3.2 may be terminated by the Association without cause and without penalty at any time after the termination of such control upon thirty (30) days' prior notice to the Manager and/or the Declarant, as applicable. The above term and termination provisions shall not apply to any other types of service contracts.

3.13 Registered Agent. The registered agent of the Association shall be the person designated herein to receive service of process on behalf of the Association and/or Project in accordance with the Condominium Act. The name and address of the initial registered agent of the Association are: Daniel Gifford, 10421 South Jordan Gateway, Suite 600, South Jordan, Utah 84095.

3.14 Amplification. The provisions of this Article III may be amplified by the Articles and the Bylaws; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

3.15 Proceedings. The Association, acting through the Board, shall have the power and the duty to bring, prosecute and settle litigation for itself and the Project, provided that it shall make no settlement which results in liability against the Board of Directors, the Association or the Project in excess of \$15,000 without prior approval by a majority of the votes of Owners.

#### **ARTICLE IV PROPERTY RIGHTS IN COMMON AREAS AND UNITS**

4.1 Easement of Enjoyment. Each Member shall have an equal undivided interest, right and easement of use and enjoyment in and to the Common Areas. Each Owner (including Owners of Units constructed on the Additional Land) shall have an unrestricted right of ingress or egress to and from its Unit over and across such Common Areas, and the non-exclusive right to the use of all parking stalls within the Common Areas; provided, however, that each Owner of a Unit shall also have the exclusive right to use and enjoy any Limited Common Areas that may be designated for the exclusive use by the Owner of such Unit. Such rights and easements 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 members, household guest, tenant, lessee, contract purchaser, or other person who resides in such Owner's Unit.

4.2 Easements for Encroachments. In the event the construction, reconstruction, repair, shifting, settlement, or any other movement of any portion of the improvements causes any part of a Condominium built in substantial accord with the boundaries for such Condominium as depicted on the Plat to encroach upon the Common Areas, or upon an adjoining Unit, or if any

part of the Common Areas encroaches or shall encroach upon a Unit or Condominium for any such reasons, an easement for such encroachment and for the maintenance of the same shall be deemed to exist and does hereby exist. In addition, there is also hereby created an easement for any encroachment by any roof overhang upon an adjoining Unit or any part of the Common Areas.

4.3 Limitation on Easement. An Owner/Member's equal undivided interest, right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(A) The right of the Association, after providing reasonable notice and an opportunity for a hearing given to a Member, to suspend a Member's voting right in the Association and a Member's right to the use of any recreational facilities included in the Common Areas for any period during which (i) an assessment on such Member's Unit remains unpaid; (ii) for a period not exceeding sixty (60) days for any infraction by such Member of the provisions of this Declaration or of any rule or regulation promulgated by the Association; or (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period;

(B) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas; and

(C) The right of any governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, transporting school children; and providing other governmental or municipal service;

4.4 Party Walls. Each wall or ceiling floor physical boundary which is built as part of the original construction (or reconstruction) of the Condominiums or Town Homes upon the Units and placed on the dividing line (whether horizontal or vertical) between the Units shall constitute a "Party Wall" and, to the extent not inconsistent with the provisions of this Section 4.4, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to all Party Walls within the Project. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners who make use of such Party Wall. If a Party Wall is destroyed or damaged by fire or other casualty, the provisions of Article VII hereof shall apply. Notwithstanding any other provision of this Section 4.4, an Owner who by his negligent or willful act causes a Party Wall to be damaged shall bear the entire cost of furnishing repairs to the Party Wall. The right of any Owner to contribution from any other Owner under this Section 4.4 shall be appurtenant to the land and shall pass to such Owner's successors in title.

4.5 Form for Conveying Units. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Unit may describe the interest or estate involved substantially as follows:

“Condominium Unit \_\_\_\_\_, as shown in the Condominium Plat for Park View at Riverwalk Condominiums and Town Homes appearing in the Records of the County Recorder of Salt Lake County, State of Utah, in Book No. \_\_\_\_\_, Page No. \_\_\_\_\_, of Plats, and as defined and described in the Amended & Restated Declaration of Covenants, Conditions and Restrictions of Park View at Riverwalk Condominiums and Town Homes (the “Declaration”), recorded the \_\_\_\_\_ day of \_\_\_\_\_, 2008, as Entry No. \_\_\_\_\_; TOGETHER WITH an equal undivided interest in, and right and easement of use and enjoyment in and to, the Common Areas described in the Declaration; TOGETHER WITH an exclusive right to use any Limited Common Area associated with such Unit as described in the Declaration.”

Or

“Town Home Unit \_\_\_\_\_, as shown in the Condominium Plat for Park View at Riverwalk Condominiums and Town Homes appearing in the Records of the County Recorder of Salt Lake County, State of Utah, in Book No. \_\_\_\_\_, Page No. \_\_\_\_\_, of Plats, and as defined and described in the Amended & Restated Declaration of Covenants, Conditions and Restrictions of Park View at Riverwalk Condominiums and Town Homes (the “Declaration”), recorded the \_\_\_\_\_ day of \_\_\_\_\_, 2008, as Entry No. \_\_\_\_\_; TOGETHER WITH an equal undivided interest in, and right and easement of use and enjoyment in and to, the Common Areas described in the Declaration; TOGETHER WITH an exclusive right to use any Limited Common Area associated with such Unit as described in the Declaration.”

Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any person who acquires any interest in a Unit.

4.6 Transfer of Title. The Declarant agrees to cause the conveyance to the Association of title to the Common Areas free and clear of all liens (other than the lien of current general taxes, the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities, and the lien or claim created by this Declaration), before the first conveyance of a Unit from Declarant to a third-party purchaser.

## ARTICLE V ASSESSMENTS

5.1 Agreement to Pay Assessments. The Declarant for each Unit owned by it within the Project and each Owner of any Unit by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Article V. From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased above twenty percent (20%) of the annual assessment for the prior year only by a vote of at least sixty-seven percent (67%) of the votes (determined in accordance with Section 3.4) of Members who are voting in person or by proxy, at a meeting duly called for this purpose. The Board may fix the annual assessment at an amount not in excess of the maximum amount permitted herein.

5.2 Annual Assessments. Annual assessments shall be computed and assessed against all Units in the Project as follows:

(A) Common Expense. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas, the Condominium Building Exteriors, and furnishing common utility services and other common items to the Condominiums. Such estimated expenses may include, without limitation, the following: expenses of management; operation and maintenance costs; real property taxes and special assessments on the Common Areas (and the Units until the Units are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder or under the Articles or Bylaws; repairs and maintenance of the Common Areas and Condominium Building Exteriors; landscaping; picnic areas; tot lots; sport courts; wages of Association employees, including fees for a Manager; repairs and replacements of window well sump pumps; utility charges, including charges for utility services to the Condominiums to the extent not separately metered or billed and utilities for the Common Areas; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas and Condominium Building Exteriors that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration, the Articles, or the Bylaws. The aggregate of all such items shall constitute the "Common Expenses" and all funds received from assessments under this Section 5.2(A) shall be part of the "Common Expense Fund." Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses, which together shall constitute the Common Expense Fund.

(B) Apportionment. Common Expenses shall be apportioned among and assessed to all Units and their Owners in accordance with the Assessment Percentages for each Unit, as set forth on Exhibit B, which is attached hereto and incorporated herein by this reference.

The Declarant shall be liable for the amount of any assessments against Units owned by it subject to the provisions of Section 5.4 below.

(C) Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of the conveyance of the first Unit by Declarant. On or before December 1 of each year thereafter, the Board of Directors shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses of Common Expense for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

(D) Notice and Payment. Except with respect to the first fiscal year, the Board of Directors shall notify each Owner in writing as to the amount of the annual assessment against his or her Unit on or before December 1 each year for the fiscal year beginning on January 1 next following. Except as otherwise provided by the Board, each annual assessment shall be payable in twelve (12) equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year. All unpaid installments of any annual assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from fifteen (15) days after the date each such installment became due until paid. The Board of Directors shall also have the right to assess a late fee of up to five percent (5%) of any assessment installment not paid within fifteen (15) days following the due date thereof. In addition, in the event that any installment of the annual assessment is not paid within fifteen (15) days of the date such installment becomes due, the Association may, at its option, and upon fifteen (15) days' prior written notice to the Owner, accelerate the due date for all remaining unpaid installments of the annual assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the annual assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate established by the Board not to exceed eighteen percent (18%) per annum from such date until paid in full. The failure of the Board of Directors 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.

(E) 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, to pay actual Common Expenses incurred by the Association, the Board of Directors may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in Section 5.3 below, except that the vote therein specified shall be unnecessary.

5.3 Special Assessments. In addition to the annual assessments authorized by this Article V, the Board of Directors may, on behalf of the Association, levy, at any time and from time to time, upon the affirmative vote of at least sixty-seven percent (67%) of the voting power of the Association in person or by proxy at a meeting called for such purpose, special assessments, payable over such periods as the Board of Directors may determine, for the purpose of defraying, in whole or in part, the cost of any conversion, expansion, construction or reconstruction, unexpected repair or replacement of the Project 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 5.3 shall not be construed as an independent source of authority for the Association to incur expenses, but shall 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 in accordance with their Assessment Percentages. 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 fifteen (15) days after such notice shall have been given. All unpaid portions of any special assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section 5.3 shall be part of the Common Expense Fund. In connection with any such special assessment made pursuant to this Section 5.3, if at the time of such assessment is made or the time such assessment becomes due and payable, the Declarant is only obligated to pay twenty-five percent (25%) of the annual assessment attributable to Units it owns pursuant to Section 5.4 below, it shall only be required to pay twenty-five percent (25%) of the special assessment otherwise attributable to each such Unit. The provisions of this Section 5.3 are not intended to preclude or limit the assessment collection or use of annual assessments for the aforesaid purposes.

5.4 Uniform Rate of Assessment. The amount of any annual or special assessment against each Unit shall be fixed at a uniform rate based on the Assessment Percentages allocated to each Unit, as set forth on Exhibit B, except that, to the extent permitted by the Condominium Act, Declarant shall pay only twenty-five percent (25%) of the annual assessment attributable to each Unit which it owns until Declarant conveys such Unit to a third-party purchaser. If the Declarant ceases to qualify for the reduced twenty-five (25%) rate as to any Unit during the period to which an annual assessment is attributable, the assessment attributable to such Unit shall be prorated between the applicable rates on the basis of the number of days in the period that the Owner qualified for each rate. Annual assessments may be collected on a monthly basis and special assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Members of the Association approving the special assessment. So long as the Declarant qualifies for the reduced assessment rate with respect to the Units which it owns, if the assessments for any fiscal year of the Association shall fail to equal or exceed the actual expenses incurred by the Association during any such fiscal year because of the Declarant's right to pay reduced assessments, then the Declarant shall pay to the Association a sufficient amount, up to the amount for that fiscal year of the full assessment for each Unit owned by Declarant to meet any such deficit, so long as a written notice of such deficit is given by the Association to the

Declarant within sixty (60) days following the termination of the fiscal year for which the assessment is made.

5.5 Notice and Quorum for Any Action Authorized Under Sections 5.1 and 5.3. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.1 or Section 5.3 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to date of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes (exclusive of suspended voting rights) of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.6 Lien for Assessments. All sums assessed to Owners of any Unit within the Project pursuant to the provisions of this Article V, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Association. To evidence a lien for sums assessed pursuant to this Article V, the Board of Directors may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of any assessment made pursuant to this Declaration. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, (including reasonable attorney's fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessment against the Unit which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Directors shall have the right and power in behalf of the Association to bid in at any foreclosure sale and to hold, lease, mortgage, or convey the subject Unit in the name of the Association. The lien described in this Section 5.6 shall not be affected by any sale or transfer of a Unit subject to such lien, except that a sale or transfer of a Unit pursuant to a foreclosure of a First Mortgage shall extinguish a subordinate lien for Common Expenses and assessments which became payable prior to such foreclosure sale or transfer. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit so sold or transferred from the lien of, any Common Expense charge or assessment thereafter becoming due.

5.7 Personal Obligation of Owner. The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner of such Unit to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common

Areas or by abandonment of his Unit or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessment hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

5.8 Personal Liability of Purchaser. The personal obligation of an Owner to pay unpaid assessments against his Unit as described in Section 5.7 shall not pass to successors in title unless expressly assumed by them or required by the Condominium Act. Provided, however, a lien to secure unpaid assessments shall not be affected by the sale or transfer of the Unit unless foreclosure by a First Mortgagee is involved, in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further assessments.

5.9 Reserves and Working Capital. In addition to its day-to-day operating funds, the Association shall establish the following funds:

(A) Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Areas and Condominium Building Exteriors which the Association is obligated to maintain, repair, or replace. The reserve fund shall be maintained out of regular assessments for Common Expenses.

(B) Working Capital Fund. The Declarant shall establish and maintain for the Project, a working capital fund equal to at least two (2) monthly installments of the annual assessment of each Unit. Each Unit's share of the working capital fund must be collected and transferred to the Association at the time of the closing of sale of that Unit. Notwithstanding the foregoing, the contribution to the working capital fund for each unsold Unit shall be paid by the Declarant to the Association within sixty (60) days after the date construction of the Unit, including without limitation the installation of carpets, cabinets, fixtures, and appliances, has been completed. With respect to each Unit for which the Declarant pays the contribution to the working capital fund, Declarant shall be reimbursed for such contribution either by the Purchaser of such Unit at the time of the closing of the sale to such purchaser or by the Association upon termination of the Declarant's control of the Association as described in Section 3.2, whichever is earlier. The working capital fund must be maintained in a segregated account for the use and benefit of the Association. The purpose of the working capital fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Association. Amounts paid into the working capital fund are not to be considered advance payments of any regular assessment. The working capital fund shall be transferred to the Association for deposit to a segregated fund when control of the Association is transferred to the Owners. The Declarant shall not use the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association.

5.10 Evidence of Payment of Annual and Special Assessments. Upon receipt of a written request by a Member or any other person and payment of a fee not to exceed \$10, the Association within a reasonable period of time thereafter shall issue to such Member or other person a written certificate stating (a) that all annual and special assessments (including interest, costs and attorneys' fees, if any, as provided in Section 5.2 above) have been paid with respect to any specified Unit as of the date of such certificate, or (b) if all annual and special assessments have not been paid, the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bond fide purchaser of, or Mortgagee on, the Unit in question and against the Association and the remaining Owners.

5.11 Nonpayment of Assessments: Termination of Rights; Collection of Rents from Tenants.

(A) Termination of Rights. If an Owner fails or refuses to pay any assessment when due, the Association, through its management committee, may, after giving notice and an opportunity to be heard in accordance with this Section 5.11(A), terminate an Owner's right to receive utility services paid as a common expense, and/or terminate an Owner's right to access and use of recreation facilities. Before terminating such rights, the Association shall give written notice to the Owner in the manner provided in this Declaration, the Bylaws, or the rules of the Association, which notice shall state (1) that utility services or rights of access and use of the recreational facilities will be terminated if payment of the assessment is not received within five (5) days from the date the notice is delivered to the Owner, (2) the amount of the assessment due, including interest or late fees; and (3) the right of the Owner to request a hearing. An Owner who is given notice may request an informal hearing to dispute the assessment by submitting a written request to the management committee of the Association within 14 days from the date the notice is received. The hearing shall be conducted in accordance with the standards provided in this Declaration, the Bylaws, or the rules of the Association. If a hearing is requested, utility services or right of access to and use of recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered. Upon payment of the assessment due, including interest and late fees, the Owner's right to utility services and access to and use of the recreational facilities shall be immediately reinstated.

(B) Collection of Rents from Tenants. If the Owner of a Unit who is leasing the Unit fails to pay any assessment for a period of more than 60 days after it is due and payable, the Association, through its management committee, upon compliance with this Section 5.11(B), may demand the tenant of such Unit to pay to the Association all future lease payments due to the Owner, commencing with the next monthly or periodic payment, until the amount due to the Association is paid. The Association must give the Owner written notice in accordance with this Declaration, the Bylaws, or the rules of the Association of its intent to demand full payment from the tenant. The notice shall (1) provide notice to the tenant that full payment of the remaining

lease payments will commence with the next monthly or other periodic payment unless the assessment is received within the time period provided in this Declaration, the Bylaws, or the rules of the Association; (2) state the amount of the assessment due, including interest and late fees; (3) state that any costs of collection, not to exceed \$150 or such greater amount as may be permitted under the Condominium Act, and other assessments that become due may be added to the total amount due; and (4) provide the requirements and rights described in this Section 15.11(b). If the Owner fails to pay the amount of the assessment due by the date specified in the notice, the Association may deliver written notice to the tenant, in accordance with this Declaration, the Bylaws, or the rules of the Association, that demands further payment due to the Owner be paid to the Association. A copy of the notice must be mailed to the Owner. The notice provided to the tenant must state: (i) that due to the Owner's failure to pay the assessment within the time period allowed, the Owner has been notified of the Association's intent to collect all lease payments due to the Association pursuant to this Section 15.11 and the Condominium Act; (ii) that until notification by the Association that the assessment due, including interest and late fees, has been paid, all future lease payments due to the Owner are to be paid to the Association; and (iii) payment by the tenant to the Association in compliance with this Section 15.11(B) will not constitute a default under the terms of the lease agreement, and that if payment is in compliance with this Section 15.11(B), suit or other action may not be initiated by the Owner against tenant for failure to pay. All funds paid to the Association pursuant to this Section 15.11(B) shall be deposited in a separate account and disbursed to the Association until the assessment due, including cost of administration not to exceed \$25 or such greater amount as may be permitted by the Condominium Act, is paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full is made to the Association. Within five (5) business days after the assessment has been paid in full to the Association, the Association shall notify the tenant in writing that future lease payments are no longer due to the Association, and shall mail a copy of such notice to the Owner.

## ARTICLE VI OPERATION AND MAINTENANCE

6.1 Maintenance of Condominiums. Each Condominium and Unit shall be maintained by the Owner thereof so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Condominium or Unit. The Association shall have no obligation regarding maintenance or care of Condominiums or Units except as set forth in Section 6.2 or elsewhere in this Declaration.

6.2 Operation and Maintenance by Association. The Association shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Units and to keep them clean, functional, attractive, and generally in good condition and repair. The Association shall also provide for the maintenance of all Condominium and Town Home Building Exteriors. The expenses incurred by the Association for such purposes shall be paid for with funds from the Common Expense Fund.

6.3 Utilities. The Owner shall pay for all utility services furnished to each Unit which are separately billed or metered to individual Units by the utility or other party furnishing such service. The Association shall pay such bills which are not separately metered and charge an appropriate share to each Unit and Owner as part of the Common Expenses.

6.4 Insurance. The Association shall at all times maintain in force insurance which is consistent with FNMA's insurance coverage requirements and which is consistent with state and local insurance laws. Such insurance shall at least equal to such coverage as is commonly required by prudent institutional mortgage investors in the area in which the Project is located. At a minimum, the Association shall maintain insurance which meets the following requirements:

(A) Hazard Insurance. The Association shall maintain a "master" or "blanket" type policy of property insurance shall be maintained covering the entire Project, including: Common Areas; all Condominium Buildings including all Condominiums (other than the interior content thereof); fixtures, building service equipment, personal property and supplies comprising a part of the Common Areas or owned by the Association; fixtures, equipment, or other property within the Units which are to be financed by a Mortgage purchased by FNMA or FHLMC (regardless of whether or not such property is part of the Common Area); but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity condominium insurance coverage. At a minimum, such "master" or "blanket" policy shall afford protection against the following: (i) loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, (ii) if the Project contains a steam boiler, loss or damage resulting from steam boiler equipment accidents in an amount not less than \$50,000 per accident per location (or such greater amount as deemed prudent based on the nature of the Project); and (iii) all other perils which are customarily covered with respect to condominium projects similar to the Project in construction, location, and use, including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. The insurance policy shall include an "Agreed Amount Endorsement Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance) and, if available, an "Inflation Guard Endorsement" if the same are available and are commonly required by prudent institutional mortgage investors in the area in which the Project is located. If required by FNMA and/or FHLMC, the policy shall also include construction code endorsements (such as a "Demolition Cost Endorsement," a "Contingent Liability form Operation of Building Laws Endorsement," and an "Increased Cost of Construction Endorsement") if the Project is subject to a construction code provision which would become operative and require changes to undamaged portions of the buildings. The maximum deductible amount for such policy covering the Common Areas shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount. However, for losses related to individual Condominiums that are covered by such a policy, the

deductible related to each individual Condominium shall be One Thousand Dollars (\$1,000). Funds to cover these deductible amounts shall be included in the Association's operating reserve account.

(B) Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Areas, Condominium Building Exteriors, public ways in the Project, including any dedicated trail system(s), all other areas of the Project that are under the Association's supervision, and commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas, and/or Condominium Building Exteriors, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy may include (and shall include if so required by FNMA and/or FHLMC) protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location, and use, including but not limited to (where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in the terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

(C) Flood Insurance. If any part of the Project is or comes to be situated in an area identified by the Secretary of Housing and Urban Development as a Special Flood Hazard Area (as designated by publication in the Federal Register of a Flood Insurance Boundary Map or Insurance Rate Map), the Association shall maintain a "master" or "blanket" policy of flood insurance covering the Condominium Buildings, any machinery and equipment that are part of a Condominium Building and all Common Areas within the Project (hereinafter "Insurable Property") in an amount deemed appropriate by the Association, but not less than the lesser of: (i) the maximum limit of coverage available under the National Flood Insurance Administration Program for all Insurable Property within any portion of the Project located within a designated special flood hazard area; or (ii) one hundred percent (100%) of the current replacement cost of all Insurable Property within such special flood hazard area. Such flood insurance policy shall be in a form which meets the criteria set forth in the most current Guidelines on the subject issued by the Federal Insurance Administrator. The maximum deductible amount for any such policy shall be the lesser of Five Thousand Dollars (\$5,000) or one percent (1%) of the policy face amount.

(D) Fidelity Bonds. The Association shall at all times maintain in force and pay the premiums for “blanket” fidelity bonds for all officers, members, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide “blanket” fidelity bonds, with coverage identical to such bonds required of the Association, for the Manger’s officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association’s best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of each bond. A lesser amount of fidelity insurance coverage is acceptable for the Project so long as the Association and the Manager adhere to the following financial controls: (1) the Association or the Manager maintains separate bank accounts for the working account and the reserve account, each with appropriate access controls, and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (2) the Manager maintains separate records and bank accounts for each Association that uses its services, and the Manager does not have authority to draw checks on or to transfer funds from the Association’s reserve account; or (3) two members of the Board must sign any checks written on the reserve account. Nevertheless, in no event may the amount of such bonds be less than the sum equal to three (3) months’ aggregate assessments on all Units plus reserve funds. The fidelity bonds shall name the Association as obligee and shall contain waivers by the issuers thereof of all defenses based upon the exclusion of persons serving without compensation from the definition of “employees” or similar terms or expressions. The premiums on all fidelity bonds required herein for the Association (except for premiums on fidelity bonds maintained by the Manager for its officers, employees and agents) shall be paid by the Association as part of the Common Expenses. The fidelity bonds required hereunder shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten ( 10) days’ prior written notice to the Association, to any Insurance Trustee, and to each servicer of loans on behalf of FNMA.

(E) Additional General Requirements.

(i) The name of the insured under the hazard insurance policy and the flood insurance policy required to be maintained by the foregoing Sections 6.4(A) and 6.4(C) shall be “Parkview at Riverwalk Condominiums and Town Homes Association for use and benefit of the individual owners of Parkview at Riverwalk Condominiums and Town Homes Project” or words of similar effect (said Owners shall be designated by name, if required by applicable law). Notwithstanding the requirement of the immediately foregoing sentence, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee, if applicable), as a trustee for each Owner and each such Owner’s Mortgagee. The Association or Insurance Trustee, if applicable, shall

hold any insurance proceeds in trust for the Owners and their First Mortgagees, as their interests may appear. Each Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of such policies in the percentage of common ownership or in an amount determined pursuant to a reasonable formula, if any, prescribed in this Declaration, as the same may be amended. Evidence or certificates of insurance shall be issued to each Owner and Mortgagee upon request.

(ii) Each policy required to be maintained by the foregoing Section 6.4(A), shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Project is located. If FNMA is a holder of one or more Mortgages on Units within the Project, such mortgage clause shall name FNMA or FNMA's servicer of such Mortgages as "mortgagees." If FNMA's servicer is named as mortgagee in such mortgage clause, such servicer's name shall be followed therein by the phrase "its successors and assigns." In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

(iii) Each policy required to be maintained by the foregoing Section 6.4(A) shall provide, if available, for the following: (1) recognition of any insurance trust agreement; (2) a waiver of the right of subrogation against Owners individually; (3) the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and (4) the policy is primary in the event the Owner has other insurance covering the same loss.

(F) Insurance Trustees and General Requirements Concerning Insurance. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance and taking all actions with respect thereto, including without limitation: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

(G) Insurers; Policies. Each insurance policy maintained pursuant to the foregoing Sections 6.4(A), 6.4(B), 6.4(C), and 6.4(D) shall be written by an insurance carrier

which is licensed to transact business in the State of Utah and which is a generally acceptable insurance carrier. If required, the insurance carrier shall also satisfy the requirements of FNMA and FHLMC. In absence of any specific restrictions or requirements concerning acceptable insurance carriers, the insurance carrier shall have a "B" general policyholder's rating or a financial performance index of "6" or better in the Best's Key Rating Guide, or an "A" or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (i) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Board, the Association, FNMA, FHLMC, or the designee of FNMA or FHLMC; (ii) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including without limitation the Board, the Association, an Owner, FNMA, FHLMC, or their designees) from collecting insurance proceeds. The provisions of this Section 6.4(G) and of the foregoing Sections 6.4(A), (B), (C), and (D) shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

(H) Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

## ARTICLE VII DAMAGE OR DESTRUCTION

7.1 Association as Attorney-in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said Grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

7.2 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Condominium and the Common Areas having substantially the same vertical and horizontal boundaries as before.

7.3 Procedure. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows:

(A) Notice to First Mortgagees. The Association shall give timely written notice to any holder of any First Mortgage on a Unit or who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Areas or a Condominium subject to such First Mortgage.

(B) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Project damaged or destroyed.

(C) Sufficient Insurance. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

(D) Insufficient Insurance – Less than Seventy-Five Percent (75%) Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a special assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such special assessment shall be allocated and collected as provided in Section 5.3 above, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(E) Insufficient Insurance – Seventy-Five Percent (75%) or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction, Owners entitled to vote at least seventy-five percent (75%) of the votes of the Members vote to carry out such repair and reconstruction. If, however, the Owner 's do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the votes of the Members to carry out such repair and reconstruction but rather elect to terminate the Project, and if Eligible Mortgagees who represent at least fifty-one percent (51 %) of the votes of Units subject to Mortgages held by Eligible Mortgagees approve such termination, the Association shall record in the office of the County

Recorder of Salt Lake County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

(i) The Project shall be deemed to be owned in common by the Owners,

(ii) Each Owner shall own an undivided interest in the Project equal to such Owner's Common Expense allocation percentage as set forth on Exhibit B;

(iii) Any liens affecting any of the Units shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

(iv) The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner. The division of funds shall be based on the fair market values of the Units and Condominiums immediately prior to the damage or destruction, and the Owners shall divide said funds based upon the relative value of the Units and Condominiums prior to the damage or destruction.

(F) Priority. In no event shall an Owner of a Unit or any other party have priority over the holder of any First Mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

7.4 Repair or Reconstruction. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Condominium and the Common Areas having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Declaration and the original architectural plans and specifications.

7.5 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Section 7.3(D) shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in

payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners equally.

7.6 Amendment of Article. This Article VII shall not be amended unless, of the Owners entitled to vote, Seventy-five percent (75%) of the Owners vote and agree to such amendment, the Secretary of the Department of Veterans Affairs approves said amendment and such approval and agreement is reflected in an instrument duly executed by the Board of Directors of the Association and the Secretary of the Department of Veterans Affairs and recorded in accordance with the provisions of this Declaration. The requirement of prior approval and execution by the Department of Veterans Affairs shall not be required for agreements to add phases to an expandable condominium project if the phasing implements a previously approved general plan for total development.

## **ARTICLE VIII CONDEMNATION**

8.1 Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article VIII shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by a condemning authority, the Board of Directors shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any First Mortgagee who has requested in writing notice thereof. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas, or any part thereof, and each Owner hereby appoints, or by accepting a deed to a Unit is deemed to appoint, the Association as such Owner's attorney-in-fact for the purposes of such representation.

8.2 Proceeds. All compensation, damages and other proceeds from any such taking by power of eminent domain (collectively, the "Condemnation Award") shall be made payable to the Association and shall be held in trust for the Owners and their First Mortgagees as their interests may appear. Any Condemnation Award shall be distributed by the Board of Directors, on behalf of the Association as herein provided.

8.3 Complete Taking. In the event the entire Project is taken by power of eminent domain, ownership pursuant hereto shall terminate and the Condemnation Award shall be allocated among and distributed to the Owners and the Owners shall divide the Condemnation Award based upon the relative values of the Units and Condominiums immediately prior to the condemnation. Such distribution shall be made by check payable joint to the respective Owners and their respective Mortgagees, as appropriate.

8.4 Partial Taking. In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

(A) Allocation of Award. As soon as practicable, the Board of Directors shall, on behalf of the Association, reasonably and in good faith, apportion the Condemnation Award between compensation, severance damages or other proceeds and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The total amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken).

(ii) The total amount apportioned to severance damages shall be allocated among and distributed equally to the Owners of those Units that have not been taken.

(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit.

(iv) The total amount apportioned to consequential damages and any other taking or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

(v) If apportionment or allocation is already established by negotiation, judicial decree, statute or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable;

(vi) Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as their interests may appear; and

(vii) No provision of this Article VIII or any other provision of this Declaration, the Articles, or the Bylaws shall entitle the Owner of a Unit or other party to priority over any First Mortgagee holding such Unit with respect to the distribution to such Unit of the proceeds of any award, settlement or proceeds from any eminent domain or condemnation proceeding.

(B) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, ownership pursuant hereto shall not terminate but shall continue. In such event the Project shall be reorganized as follows:

(i) If any partial taking results in the taking of an entire Unit, then the Owner thereof shall cease to be a member of the Association and all voting rights shall terminate,

(ii) If any partial taking results in the taking of a portion of a Unit, the voting rights appertaining to such Unit shall continue.

(iii) If any partial taking results in the taking of a portion of a Unit and if there is a determination made by the Board of Directors, after duly considering any recommendations, proposals, or other input from the Owners, that such taking makes it impractical to use the remaining portion of such Unit, then all voting rights terminate and the remaining portion of such Unit shall thenceforth be part of the Common Areas;

(iv) The Board of Directors, after duly considering any recommendations, proposals or other input from the Owners, shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section 8.4(B); provided, however, that if any such determination shall have been or such action take by judicial decree, the Board of Directors shall defer thereto and proceed in accordance therewith.

(C) Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Article VII hereof for cases of Damage or Destruction; provided, however, that the provisions of said article dealing with sufficiency or insufficiency or insurance proceeds shall not be applicable.

## **ARTICLE IX TERMINATION**

9.1 Required Vote. Except as otherwise provided in Article VII and Article VIII, the Project may be terminated only by agreement of Owners entitled to vote at least sixty-seven percent (67%) of the votes attributable to all Units.

9.2 Termination Agreement. An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. Such an agreement to terminate shall also be approved by Eligible Mortgagees who represent at least sixty-seven percent (67%) of the votes of Units subject to First Mortgages held by Eligible Mortgagees. Such approval (and any other approval related to an amendment to this Declaration) shall be deemed given when an Eligible Mortgagee fails to submit a response within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in Salt Lake County, Utah and is effective only on recordation.

9.3 Sale of Project. A termination agreement may provide that the entire Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be

sold following termination, the termination agreement shall set forth the minimum terms of the sale.

9.4 Association Duties. The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to Sections 9.1 and 9.2. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interests may appear, based on the relative value of each Unit and Condominium. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest remain liable for all assessments and other obligations imposed on Owners by this Declaration.

9.5 Proceeds of Sale. Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and Mortgagees as their interests may appear. Following termination, Mortgagees holding Mortgages on the Units which were recorded before termination may enforce those liens in the same manner as any lienholder.

## ARTICLE X GENERAL USE RESTRICTIONS

10.1 Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interest of the Owners.

10.2 Use of Common Areas. The Common Areas shall be used only in a manner consistent with their community nature and with the rules, regulations and use restrictions applicable to Units and Condominiums. No admission fees, charges for use, leases, or other income generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas. Provided, however, vending machines and similar devices approved by the Board may be made available within the Common Areas.

10.3 Use of Units and Condominiums. All Units are improved with Condominiums and are restricted to such use. Each Condominium shall be used only as a single-family residence. No Unit or Condominium shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Condominium, so as to create a nuisance or interfere with

the rights of any Owners, or in any way which would result in an increase in the cost of any insurance covering the Common Areas or Condominiums.

10.4 Exception for Declarant. Notwithstanding the restrictions contained in this Article XI, for the five (5) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah, Declarant shall have the right to use any Unit or Condominium owned by it, and any part of the Common Areas reasonably necessary or appropriate, in furtherance of any activities designed to accomplish or facilitate improvement and sale of all Units owned by Declarant. Without limiting the foregoing, Declarant shall have the right to maintain one or more sales offices and model Condominiums. Such offices and model Condominiums may be located in any Condominium owned or leased by Declarant, or in one or more separate structures or facilities placed upon the Property for the purpose of aiding the Declarant's sales efforts, or any combination of the foregoing. Declarant shall also have the right to maintain a reasonable number of promotional, advertising, or directional signs, banners, or similar devices at any place or places on the Property. Declarant shall have the right from time to time to locate or relocate any of its sales offices, model Condominiums, signs, banners or similar devices.

10.5 Leases. Any lease agreement between an Owner and a lessee respecting a Unit or Condominium shall be subject in all respects to the provisions of this Declaration, the Articles, and Bylaws, and shall provide that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such lease agreements shall be in writing and shall be for an initial term of not less than thirty (30) days. An Owner shall be responsible and liable for any damage to the Project caused by its tenant. Without limiting the generality of the foregoing, the following shall also apply with respect to leasing of a Unit:

(A) No more than forty percent (40%) of the total number of Units in the Property shall be rented or leased at any given time, or otherwise held for investment purposes or for any purpose other than for use by the Owner as a primary residence. The leasing limitation contained herein shall not apply to the lease of Units necessary to avoid Hardship Circumstances, as defined in Section 10.5(G).

(B) Any Owner who leases his Unit shall file with the Board of Directors or Manager a copy of the rental or lease agreement affecting said Unit and shall obtain prior written approval of the lease by the Board of Directors. The Board of Directors shall not approve of a lease that would result in a violation of the provisions of Section 10.5(A) above or any other provision of this Declaration. Any such lease agreement shall include terms providing as follows:

(i) Tenants shall agree not to allow or commit any nuisance, waste, unlawful or illegal act on the premises.

(ii) Owner and tenant shall acknowledge that the Association is an intended third-party beneficiary of the lease agreement, that the Association shall have

the right to enforce compliance with the Declaration and Bylaws and to abate any nuisance, waste, unlawful or illegal activity on the premises; and that the Association shall be entitled to exercise all of the owner's rights and remedies under the lease agreement to do so.

The provisions of this Declaration, the Bylaws and the rules and regulations shall apply with equal force to renters or lessees of a Unit.

(C) The Board of Directors or Manager may regulate, limit or prohibit rentals of the Units and may require that any such rental be conducted through the Board of Directors. Prior to a tenant's occupancy of a Unit, the Owner must provide the Board of Directors with the name, address and telephone number of the tenant and a copy of the executed lease agreement.

(D) Any Owner who rents or leases his Unit shall be responsible for the conduct of his tenants, and upon written notice from the Board of Directors or the Manager said Owner shall be responsible for correcting violations of the Declaration, Bylaws, or rules and regulations of the Association committed by such tenants.

(E) If an Owner fails to correct violations by tenants within 72 hours of such notice, the Board of Directors or Manager shall be deemed to be the agent of the Owner and empowered to take any enforcement action the Owner would be entitled to take, the cost of such action to be assessed to the Owner and payable within 30 days of assessment. Such costs shall be collected and enforced in the same manner as assessments under the Declaration and Bylaws.

(F) The power of the Board of Directors or Manager hereunder shall include, but not be limited to, any and all legal remedies available under the laws of the State of Utah. Any Owner by the act of renting or leasing his Unit shall be deemed to have consented to these procedures and shall indemnify and save harmless the Board of Directors and the Manager from and against any and all liability therefore. It is expressly understood that the remedies available to the Board of Directors or Manager shall include but not be limited to the right to seek eviction of the tenant without any liability to the Owners.

(G) For purposes of Section 10.5(A), above, "Hardship Circumstances" include, but are not limited to, circumstances in which: (a) the Owner dies and the Unit is being administered by his estate; (b) the Owner becomes ill and is unable to reside in the Unit; (c) the Unit is to be leased to a member of the Owner's immediate family (which shall be deemed to encompass children, grandchildren, grandparents, brothers, sisters, parents, and spouses). An Owner desiring to lease his Unit on the grounds of undue hardship shall submit a written application to the Board of Directors setting forth the hardship circumstances necessitating the lease and such other information as may be reasonably required by the Board of Directors. The Board of Directors shall have thirty (30) days to act upon such written application, and failing so to do, the Owner shall have the right to lease such Unit in accordance with this Section 10.5.

10.6 Easements. Easements for installation and maintenance of utilities are reserved as shown on the Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation, maintenance and use of such utilities. Easements for the installation and maintenance of utilities are also reserved within each Condominium. It is contemplated that telephone, gas, electricity and other utilities may originate in one Condominium and terminate in another Condominium. A right of access to all such utilities is reserved to the Association and to all utility suppliers. The Association further reserves the right to grant other utility easements which are reasonably necessary to the development and operation of the Project.

10.7 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render any part of the Property unsanitary or unsightly or which would be offensive or detrimental to any other part of the Property or to the occupants thereof. No noise or other nuisance shall be permitted to exist or operate upon any part of the Property so as to be offensive or detrimental to any other part of the Property, or to the occupants thereof. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on the Property without the prior written approval of the Board.

10.8 Temporary and Other Structures. No structures of a temporary nature, trailer, basement house, tent, shack, shed, garage, barn or other outbuildings shall be used at any time as a residence either temporarily or permanently, nor shall said structures be permitted on the Property at any time. No old or secondhand structures shall be moved onto any Unit, it being the intention hereof that all Condominiums erected and maintained on Units or within the Property shall be new construction of good quality, workmanship and material.

10.9 Unsightly Articles. No unsightly articles shall be permitted to remain on or near a Unit so as to be visible from any other Unit or the Common Areas. Without limiting the generality of the foregoing, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view. Boats, recreational vehicles, trailers, mobile homes, and trucks other than pickups, shall not be parked in any Common Areas or Limited Common Areas. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Unit except within an enclosed structure or when appropriately screened from view.

10.10 No Further Subdividing. No Unit or Common Area may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Association; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Association for the transfer or

sale of any Unit or Condominium to more than one person to be held by them as tenants in common, joint tenants, or otherwise; and provided further, that nothing herein shall be deemed to prevent the expansion of the Project on the Additional Land pursuant to Article XV.

10.11 Signs. No sign of any kind shall be displayed to the public view without the approval of the Association, except such signs as may be used by Declarant in connection with the development of the Project and the sale of Condominiums and/or Units and except such signs of customary and reasonable dimensions as may be displayed on a Unit advertising a Unit or Condominium for sale or lease. Display of any "for sale" or "for lease" sign more than three (3) feet by two (2) feet shall require the prior written approval of the Association. A residential identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on residences shall be located in a position clearly legible from the street, but not more than six (6) feet above main floor level.

10.12 No Hazardous Activities. No activities shall be conducted on the Property and no improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires nor incinerators shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

10.13 Repair of Buildings. No improvement upon the Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or other-wise finished by the Owner thereof or the Association as applicable.

10.14 Improvements and Alterations. There shall be no excavation, construction or alteration which in any way alters the exterior appearance of any improvement within the Property nor removal of any Condominium or other improvement within the Property (other than repairs or rebuilding) without the prior written approval of the Association.

10.15 Rooftop Antennas. No television, ham radio, citizens band or radio antenna, satellite receiving or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any unit or elsewhere if exposed to view from any other Unit. Such antennas, if used, must be of the type that are installed within the natural building structure. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring Owner's premises or home entertainment facilities or equipment. Provided, however, Declarant and the Association reserve the right and option to install cable service lines and antennas as needed throughout the Project in connection with its development.

10.16 Animals; Household Pets. An Owner shall not permit any animals of any kind to be raised, bred, or kept in his Unit or in the Limited Common Areas appurtenant to his Unit. Notwithstanding the foregoing, household pets may be kept or housed in Units provided that no

more than two dogs or two cats or one dog and one cat may be kept or housed in Units. No household pet weighing in excess of fifty (50) pounds may be kept or housed in Units. In no event shall any pet be permitted in any portions of the Common Areas unless carried or on a leash. Each Owner who keeps a pet in a Unit shall promptly remove all pet waste from the Common Areas. Each Owner who keeps a pet in a Unit shall indemnify and hold all other Owners, the Association and Board of Directors harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having such pet in the Project. If a pet disturbs other Owners by barking or biting or in other ways becoming obnoxious, the Board of Directors will give notice to the Owner of such pet to cause such annoyance to be discontinued; and if such annoyance is not discontinued and corrected, the Board of Directors may revoke its permission to keep the pet in the Project and the pet shall be removed therefrom.

10.17 Architectural Control. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications showing the color, nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the Board of Directors.

10.18 General Obligations. Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Declaration. With respect to unsold Units, the Declarant shall enjoy the same rights and assumes the same duties with respect to each unsold Unit.

## **ARTICLE XI MORTGAGEE PROTECTION**

11.1 Notice of Action. Upon written request made to the Association by a First Mortgagee, or an insurer or governmental guarantor of a First Mortgage, which written request shall identify the name and address of such First Mortgagee, insurer or governmental guarantor and Unit number or address of the Condominium, any such First Mortgage, insurer or governmental guarantor shall be entitled to timely written notice of:

(A) Any proposed amendment of this Declaration, the Articles, or the Bylaws effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (ii) the interest in the general or limited common elements appertaining to any Unit or the liability for the Common expenses appertaining thereto; (iii) the number of votes in the Association appertaining to any Unit; and (iv) the purposes to which any Unit or the common elements are restricted;

(B) Any proposed termination of the condominium regime of the Project;

(A) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor;

(B) Any delinquency in the payment of assessments or charges owed by an Owner, whose Unit is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days;

(C) Any lapse, cancellation or material modification of any insurance policy or fidelity bond required to be maintained by the Association; and

(D) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 12.2 below or elsewhere herein.

11.2 Matters Requiring Prior Approval of Eligible Mortgagees. Notwithstanding anything in this Declaration to the contrary, the prior written consent of Eligible Mortgagees of Mortgages on Units shall be required with respect to any of the following matters:

(A) Any restoration or repair of the Project after partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications for the Project unless the approval of the Eligible Mortgagees of First Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to First Mortgages held by such Eligible Mortgagees are allocated, is obtained.

(B) Any election to terminate the condominium regime after substantial destruction or a substantial taking in condemnation of the Property shall require the approval of the Eligible Mortgagees of First Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to First Mortgages held by such Eligible Mortgagees are allocated.

(C) Except where the formula for reallocation of interests in the Common Areas after partial condemnation or partial destruction of the Project is fixed in advance by this Declaration or by applicable law, no reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Project may be effected without the approval of the Eligible Mortgagees of First Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to First Mortgage held by Eligible Mortgagees are associated.

11.3 Matters Requiring Prior Approval of Owners and Eligible Mortgagees. Except as provided elsewhere in this Declaration, and in addition to the consent required pursuant to Section 12.2 above, the following actions shall required the consent of the Owners and/or Mortgagees indicated below:

(A) The consent of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of the Eligible Mortgagees of First Mortgages on Units to which at least sixty-seven percent (67%) of the votes of Units subject to a Mortgage appertain shall be required to terminate the condominium regime of the Project.

(B) The consent of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of at least fifty-one percent (51%) of the votes of Units subject to a Mortgage appertain, shall be required to materially amend any provisions of this Declaration, the Bylaws, or equivalent documents of the Project, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of liens;
- (iii) reserves for maintenance, repair, and replacement of Common Area improvements;
- (iv) any insurance or fidelity bonds required to be maintained;
- (v) rights to use of the Common Areas;
- (vi) responsibility for the maintenance and repair of the Project;
- (vii) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;
- (viii) boundaries of any Unit;
- (ix) the interests in the Common Areas or the Limited Common Areas;
- (x) convertibility of Units into Common Areas or of Common Areas into Units;
- (xi) leasing of Units;
- (xii) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Unit;
- (xiii) establishment of self-management by the Association where professional management has been required by this Declaration or HUD, VA, FNMA, and/or FHLMC.

Any Mortgagee, insurer or governmental guarantor, except the Department of Veterans Affairs, who receives a written request from the Association to approve additions or amendments to the constituent documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

11.4 Availability of Project Documents and Financial Statements. The Association shall maintain and have current copies of this Declaration, Articles, Bylaws, and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Units in the Project. Generally, these documents shall be available during normal business hours. The Association shall make the most recent audited financial statement and any unaudited financial statement for the preceding fiscal year (if the Project has been established for a full fiscal year) available to the holder, insurer, or guarantor of any First Mortgage on submission of a written request for it. The audited financial statement shall be made available within one hundred twenty (120) days of the Association's fiscal year-end.

11.5 Subordination of Lien. The lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Unit shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned.

11.6 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in Section 6.4(A) lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

11.7 Priority. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Units or the Common Areas.

## **ARTICLE XII SEWER AND STORM DRAIN SYSTEMS**

The Association will own, operate, and maintain all sewer and storm drain laterals within the Project. The Association will pay all costs, fees, and expenses with respect to the storm drain and sewer systems and sewer utilities as part of the Common Expenses. The Association will be responsible for costs, damages, losses, and other liabilities arising from any defect in the storm drain or sewer systems, including clogging, "back ups" and other failures of the sewer system.

The Association shall have the right to make assessments, as part of the Common Expenses or as special assessments, to pay for all costs, expenses, and charges related to the storm drain and sewer systems, including without limitation storm drain and sewer charges imposed by any governmental agency and costs of repair and maintenance, and to impose liens therefore as permitted in this Declaration.

### **ARTICLE XIII EXPANDABLE CONDOMINIUM PROJECT**

13.1 Reservation of Right to Expand. The Declarant hereby reserves the option and right, from time to time at any time and in any order, to expand the Project pursuant to Section 57-8-13.6 of the Act and this Article XIII to include additional Units on the Additional Land or any portion thereof. The Consent of the Owners in the Project shall not be required for such expansion and the Declarant may proceed with such expansion at its sole option and as its sole action. The option and right to expand the Project to include the Additional Land shall expire seven (7) years after the recording of this Declaration; provided however, that Declarant may, at any time prior to the expiration of such period, terminate its option to expand by recording in the office of the County Recorder for Salt Lake County, Utah and executed and notarized document termination this option. The Declarant need not add all or any portion of the Additional Land to the Project; however, Declarant may, at its sole discretion add all or any portion or portions of the Additional Land to the Project and may do so at different times.

13.2. Preparation and Recording of Supplemental Map and supplemental Declaration. The expansion of the Project to include additional units on the additional land shall be accomplished by the filing for record by Declarant in the office of the County Recorder for Salt Lake County, Utah no later than seven (7) years after the recording to this Declaration with regard to the Additional Land or any portion thereof that is being added to the Project: (i) a supplemental condominium plat ("Supplemental Survey Map") which shall describe the land added to the Project and shall comply in all respects with the Act; and (ii) a supplement to the Declaration ("Supplemental Declaration") which shall contain a legal description of the Additional Land or portion thereof added to the project and shall reallocate the individual interests in the Common Areas and Condominium Common Areas to that the Units created on the land added to the Project shall be allocated undivided interests in the Common Areas and Facilities and Condominium Common Areas and Facilities on the same basis as Units initially included in the Project. Each such Supplemental Declaration shall assign an identifying number to each Unit, if any, included on the land added to the Project. Each such Supplemental Declaration shall describe or delineate the Condominium Units and Town Home Units and Limited Common Areas such as parking spaces, patios, decks for the Units, if any, added to the Project.

13.3. Effect of Supplemental Declarations and Supplemental Survey Maps. Each deed of a Unit shall be deemed to irrevocably reserve to Declarant the power to appoint to the Unit and Unit Owners, from time to time, the percentages of the Common Areas and Facilities set forth in the Supplemental Declaration. The proportionate interest of each Unit Owner in the Common Areas and Facilities after any expansion of the Project shall be an interest determined by dividing

equally the 100 percent undivided interest of the Project as expanded by the total number of Units after the expansion of the Project. Accordingly, upon the recordation of a Supplemental Survey Map and a Supplemental Declaration incident to any expansion, the revised schedule of undivided interests in the Common Areas and Facilities contained therein shall automatically become effective for all purposes and shall fully supersede the schedule set out in Exhibit "B" to this Declaration or any similar schedule contained in any Supplemental Declaration associated with any prior Supplemental Declaration. In the event of such expansion, the definitions used in this Declaration shall automatically be expanded to encompass and refer to the Project as so expanded. The recording of Supplemental Declarations and Supplemental Survey Maps shall operate to vest in Owners of Units in the Project, and any Mortgage of any Unit in the project undivided ownership interests in the new Common Areas and Condominium Common Areas added to the Project as the result of such expansion. The new Units shall be subject to all of the terms and conditions of this Declaration and of Supplemental Declarations.

13.4. Maximum Number of Units. The improvements to be placed on the Additional Land added to the Project may not include more than eight (8) additional Condominium Buildings and may not include more than 80 additional Condominium Units and more than fifteen (15) additional Town Home Buildings and may not include more than 80 additional Town Home Units and the maximum number of Buildings in the Project may not exceed 28 and the maximum number of Units in the Project may not exceed 160. No more than 16 Units per acre may be created on any portions of the Additional Land hereafter added to the Project.

13.5. General Liability Policy for Expansion of Project. The Declarant shall purchase at its own expense and maintain a general liability insurance policy in the sum of not less than \$1,000,000 to cover any liability which owners of previously sold Units are exposed to as a consequence of further and future expansion of the Project.

13.6 HUD-FHA Compliance. Any subsequent phase and Supplemental Declaration of the Project will comply with HUD-FHA guidelines and requirements and shall be approved by same. Failure of the Declarant to pay its proportionate share of Common Expenses associated with the Units within any subsequent phase shall result in a lien against the remaining land owned by Declarant.

### **ARTICLE XIII MISCELLANEOUS**

14.1 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 mailed postage prepaid to the person who appears as an Owner, at the latest address for such person, appearing in the records of the Association at the time of mailing.

14.2 Term. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of forty (40) years from the date this Declaration is recorded. From and after said date, this Declaration, as

amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by seventy-five percent (75%) of the votes of the Members cast at an election held for such purpose or otherwise approved in writing by such Members within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

14.3 Amendment. Except as provided in Section 15.1(A), and elsewhere in this Declaration, any amendment to this Declaration shall require the affirmative vote or written approval of at least sixty-seven percent (67%) of the total votes of the Association and prior written approval from the Department of Veterans Affairs. Any amendment authorized pursuant to this Section 14.3 shall be accomplished through the recordation in the office of the Salt Lake County Recorder of an instrument executed by the Association. In such instrument an officer or Director of the Association shall certify that the vote required by this Section 14.3 for amendment has occurred. Anything in this Article XIV or Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by FNMA, HUD, or similar agencies or entities and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Unit(s) or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an amendment duly signed by or on behalf of the authorized officers of Declarant with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such amendment, when recorded, shall be binding upon all of the Project and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section 14.3 deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control. Within ten (10) years from the date of recording this Declaration, and so long as the Declarant is the Owner of any Unit in the Project, this Declaration may be amended or terminated only with the written approval of the Declarant. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Unit to be sold to an Owner.

14.4 Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of this Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association.

14.5 Declarant's Rights Assignable. The rights of Declarant under this Declaration or in any way relating to the Property may be assigned, whereupon the assignee of Declarant shall have all the rights of Declarant hereunder.

14.6 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder thereof. This Declaration shall be liberally construed to effect all of its purposes.

14.7 Covenants to Run With Land. This Declaration and all of the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Common Areas, and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner or occupant of a Unit or Condominium shall comply with, and all interests in all Units or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments and determinations contemplated by this Declaration. By acquiring any interest in a Unit or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

14.8 Lists of Owners and Eligible Mortgages. The Board shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Unit which is owned by him; (ii) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity and the Unit which is encumbered by the Mortgage held by such person or entity; and (iii) the name of each person or entity who is an insurer or governmental guarantor, the address of such person or entity, and the Unit which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Unit, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Salt Lake County, Utah. The Board may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Salt Lake County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Board is otherwise advised.

14.9 Assessment of Fines. The Association may assess a fine against an Owner after the requirements of this Section 14.9 have been met for a violation of the rules and regulations of the Association which have been promulgated in accordance with this Declaration, the Condominium Act, and/or the Bylaws. Before assessing a fine, the Association, through its management committee, shall give notice to the Owner of the violation and inform the Owner that a fine will be imposed if the violation is not cured within ten (10) days from the date of the notice, or such longer period of time as may be specified in the notice. A fine may be assessed pursuant to this Section 14.9 only for a violation of a rule or regulation which is specifically listed in this Declaration, the Bylaws, or the rules of the Association as an offense which is subject to a fine.

The amount of any such fine shall be in the amount specified in this Declaration, the Bylaws, or the rules of the Association for that specific type of violation, not to exceed \$500 or such greater amount as may be permitted in the Condominium Act. Cumulative fines for a continuing violation may not exceed \$500 per month, or such greater amount as may be permitted in the Condominium Act. An Owner who is assessed a fine pursuant to this Section 14.9 may request an informal hearing to protest or dispute the fine within 30 days from the date the fine is assessed. The hearing shall be conducted in accordance with the Bylaws or the rules of the Association. No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered. An Owner may appeal a fine issued pursuant to this Section 14.9 by initiating a civil action within 180 days after (a) a hearing has been held and a final decision has been rendered by the Association, or (b) the time to request an informal hearing under this Section 14.9 has expired without the Owner making such a request. A fine assessed under this Section 14.9 which remains unpaid after the time for appeal has expired becomes a lien against the Owner's Unit in accordance with the same standards as a lien for nonpayment of common expenses pursuant to Article V above.

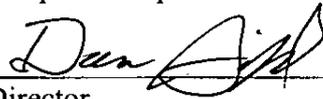
14.10 Effective Date. This Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

*[Remainder of page intentionally left blank.  
Signature page follows immediately.]*

Executed on the day and year first written above.

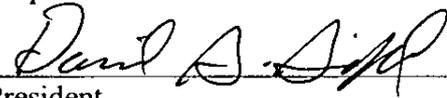
ASSOCIATION:

PARK VIEW AT RIVERWALK CONDOMINIUM  
AND TOWN HOME ASSOCIATION, INC.,  
a Utah non-profit corporation

By:   
Its: Director

DECLARANT(s):

DG DEVELOPMENT & INVESTMENT, INC.  
a Utah Corporation

By:   
Its: President

MIDVALE 72<sup>nd</sup> PROPERTY, INC.  
a Utah Corporation

By:   
Its: President

(Acknowledgements on following page)



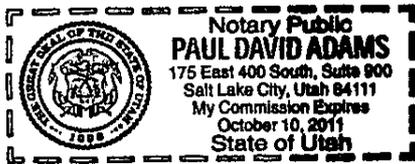
STATE OF UTAH )

:SS

COUNTY OF SALT LAKE )

This is to certify that on this 23<sup>rd</sup> day of June, 2008 before me, a Notary Public in and for said County and State, personally came Daniel G. Gifford, personally known to me or proved to me on the basis of satisfactory evidence, and acknowledged that he is the President of Midvale 72<sup>nd</sup> Property, Inc., and that by authority duly given by said Midvale 72<sup>nd</sup> Property, Inc., and as the act of Midvale 72<sup>nd</sup> Property, Inc., the foregoing instrument was signed in the name of the Midvale 72<sup>nd</sup> Property, Inc. by Daniel G. Gifford.

Witness by my hand and official seal this 23<sup>rd</sup> day of June, 2008.



Paul David Adams  
Notary Public

**EXHIBIT A**

LEGAL DESCRIPTION OF PHASE 1 PROPERTY

The following property is located in Salt Lake County, Utah:

Beginning at a point being South 0°18'00" West 2276.80 feet along the section line and West 1425.76 feet from the East Quarter Corner of Section 23, Township 2 South, Range 1 West, Salt Lake Base and Meridian and running:

thence South 45°19'31" West 289.03 feet along the north line of said River Walk Drive;

thence Southwesterly 63.06 feet along the arc of a 530.00 foot radius curve to the left(center bears South 44°40'29" east and the long chord bears South 41°55'00" West 63.02 feet with a central angle of 6°49'01") along the north line of said River Walk Drive;

thence Southwesterly 35.42 feet along the arc of a 25.00 foot radius curve to the right(center bears North 51°29'30" West and the long chord bears South 79°05'48" West 32.53 feet with a central angle of 81°10'37") along the north line of said River Walk Drive to the east line of River Walk Court;

thence North 60°18'53" West 302.48 feet along the east line of said River Walk Court;

thence Northwesterly 276.56 feet along the arc of a 150.00 foot radius curve to the right(center bears North 29°41'07" East and the long chord bears North 7°29'41" West 239.02 feet with a central angle of 105°38'24") along the east line of said River Walk Court;

thence North 45°19'31" East 47.09 feet along the east line of said River Walk Court;

thence South 60°18'53" East 252.76 feet;

thence North 45°19'31" East 200.85 feet;

thence South 44°40'29" East 252.66 feet to the point of beginning.

Contains 154,446 square feet. 3.55 acres.

**EXHIBIT A**

LEGAL DESCRIPTION OF PHASE 2 PROPERTY

Beginning at a point being South 0°18'00" West 2049.02 feet along the section line and East 1130.60 feet from the East Quarter Corner of Section 23, Township 2 South, Range 1 West, Salt Lake Base and Meridian and running:

thence Southwesterly 148.65 feet along the arc of a 230.00 foot radius curve to the left(center bears South 7°38'36" East and the long chord bears South 60°50'27" West 146.08 feet with a central angle of 37°01'53" along the north line of said River Walk Drive;

thence South 45°19'31" West 232.37 feet along the north line of said River Walk Drive;

thence North 44°40'29" West 252.66 feet;

thence South 45°19'31" West 200.85 feet;

thence North 60°18'53" West 252.76 feet;

thence North 45°19'31" East 99.56 feet along the east line of said River Walk Court;

thence Northeasterly 69.03 feet along the arc of a 50.00 foot radius curve to the left(center bears 44°40'29" West and the long chord bears North 5°46'21" East 54.77 feet with a central angle of 66°25'19") along the east line of said River Walk Court;

thence North 45°19'31" East 151.85 feet;

thence Northeasterly 176.92 feet along the arc of a 225.55 foot radius curve to the right(center bears South 44°40'29" East and the long chord bears North 67°47'48" East 172.42 feet with a central angle of 44°56'34");

thence South 89°43'55" East 62.72 feet;

thence North 0°31'16" West 70.94 feet;

thence East 363.10 feet;

thence South 12°01'27" East 318.76 feet to the point of beginning.

Contains 281,170 square feet. 6.45 acres.

**EXHIBIT B**

**CONDOMINIUM AND TOWN HOME OWNERSHIP AND PERCENTAGES**

<b>TOWN HOME UNITS</b>	<b>Percentage Interest in Common Area</b>	<b>Common Town Home Expense Apportionment</b>	<b>Percentage Interest in Condominium Common Area and Common Condominium Expense Apportionment</b>
E-1	0.840336%	1.40845%	0
E-2	0.840336%	1.40845%	0
E-3	0.840336%	1.40845%	0
E-4	0.840336%	1.40845%	0
F-1	0.840336%	1.40845%	0
F-2	0.840336%	1.40845%	0
F-3	0.840336%	1.40845%	0
F-4	0.840336%	1.40845%	0
F-5	0.840336%	1.40845%	0
F-1	0.840336%	1.40845%	0
F-2	0.840336%	1.40845%	0
F-3	0.840336%	1.40845%	0
J-1	0.840336%	1.40845%	0
J-2	0.840336%	1.40845%	0
J-3	0.840336%	1.40845%	0
J-4	0.840336%	1.40845%	0
J-5	0.840336%	1.40845%	0
L-1	0.840336%	1.40845%	0
L-2	0.840336%	1.40845%	0
L-3	0.840336%	1.40845%	0
L-4	0.840336%	1.40845%	0
M-1	0.840336%	1.40845%	0
M-2	0.840336%	1.40845%	0
M-3	0.840336%	1.40845%	0
M-4	0.840336%	1.40845%	0
M-5	0.840336%	1.40845%	0
N-1	0.840336%	1.40845%	0
N-2	0.840336%	1.40845%	0
N-3	0.840336%	1.40845%	0
O-1	0.840336%	1.40845%	0
O-2	0.840336%	1.40845%	0

B-1

O-3	0.840336%	1.40845%	0
O-4	0.840336%	1.40845%	0
P-1	0.840336%	1.40845%	0
P-2	0.840336%	1.40845%	0
P-3	0.840336%	1.40845%	0
P-4	0.840336%	1.40845%	0
P-5	0.840336%	1.40845%	0
Q-1	0.840336%	1.40845%	0
Q-2	0.840336%	1.40845%	0
Q-3	0.840336%	1.40845%	0
Q-4	0.840336%	1.40845%	0
R-1	0.840336%	1.40845%	0
R-2	0.840336%	1.40845%	0
R-3	0.840336%	1.40845%	0
R-4	0.840336%	1.40845%	0
R-5	0.840336%	1.40845%	0
S-1	0.840336%	1.40845%	0
S-2	0.840336%	1.40845%	0
S-3	0.840336%	1.40845%	0
S-4	0.840336%	1.40845%	0
T-1	0.840336%	1.40845%	0
T-2	0.840336%	1.40845%	0
T-3	0.840336%	1.40845%	0
T-4	0.840336%	1.40845%	0
T-5	0.840336%	1.40845%	0
U-1	0.840336%	1.40845%	0
U-2	0.840336%	1.40845%	0
U-3	0.840336%	1.40845%	0
U-4	0.840336%	1.40845%	0
U-5	0.840336%	1.40845%	0
V-1	0.840336%	1.40845%	0
V-2	0.840336%	1.40845%	0
V-3	0.840336%	1.40845%	0
V-4	0.840336%	1.40845%	0
W-1	0.840336%	1.40845%	0
W-2	0.840336%	1.40845%	0
W-3	0.840336%	1.40845%	0
X-1	0.840336%	1.40845%	0
X-2	0.840336%	1.40845%	0
X-3	0.840336%	1.40845%	0

B-1

CONDOMINIUM UNITS	Percentage Interest in Common Area		
A-1	0.840336%	0	2 1/12 %
A-2	0.840336%	0	2 1/12 %
A-3	0.840336%	0	2 1/12 %
A-4	0.840336%	0	2 1/12 %
A-5	0.840336%	0	2 1/12 %
A-6	0.840336%	0	2 1/12 %
A-7	0.840336%	0	2 1/12 %
A-8	0.840336%	0	2 1/12 %
A-9	0.840336%	0	2 1/12 %
A-10	0.840336%	0	2 1/12 %
A-11	0.840336%	0	2 1/12 %
A-12	0.840336%	0	2 1/12 %
B-1	0.840336%	0	2 1/12 %
B-2	0.840336%	0	2 1/12 %
B-3	0.840336%	0	2 1/12 %
B-4	0.840336%	0	2 1/12 %
B-5	0.840336%	0	2 1/12 %
B-6	0.840336%	0	2 1/12 %
B-7	0.840336%	0	2 1/12 %
B-8	0.840336%	0	2 1/12 %
B-9	0.840336%	0	2 1/12 %
B-10	0.840336%	0	2 1/12 %
B-11	0.840336%	0	2 1/12 %
B-12	0.840336%	0	2 1/12 %
C-1	0.840336%	0	2 1/12 %
C-2	0.840336%	0	2 1/12 %
C-3	0.840336%	0	2 1/12 %
C-4	0.840336%	0	2 1/12 %
C-5	0.840336%	0	2 1/12 %
C-6	0.840336%	0	2 1/12 %
C-7	0.840336%	0	2 1/12 %
C-8	0.840336%	0	2 1/12 %
C-9	0.840336%	0	2 1/12 %
C-10	0.840336%	0	2 1/12 %
C-11	0.840336%	0	2 1/12 %
C-12	0.840336%	0	2 1/12 %
D-1	0.840336%	0	2 1/12 %
D-2	0.840336%	0	2 1/12 %

B-1

D-3	0.840336%	0	2 1/12 %
D-4	0.840336%	0	2 1/12 %
D-5	0.840336%	0	2 1/12 %
D-6	0.840336%	0	2 1/12 %
D-7	0.840336%	0	2 1/12 %
D-8	0.840336%	0	2 1/12 %
D-9	0.840336%	0	2 1/12 %
D-10	0.840336%	0	2 1/12 %
D-11	0.840336%	0	2 1/12 %
D-12	0.840336%	0	2 1/12 %
<b>TOTAL:</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**EXHIBIT C**

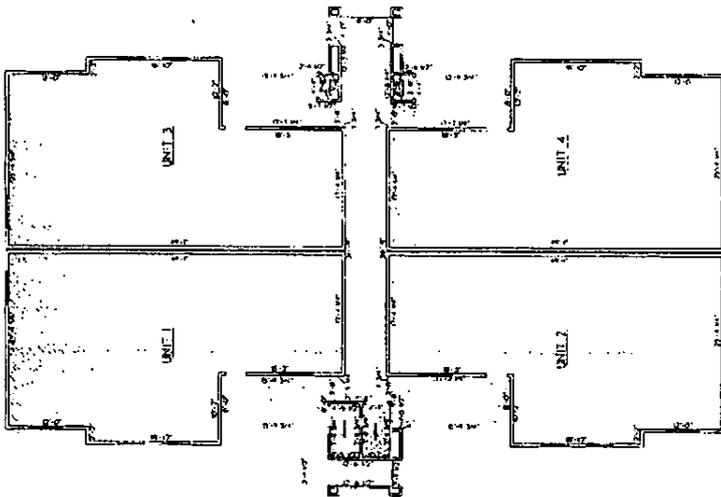
**PLATS**

See attached.

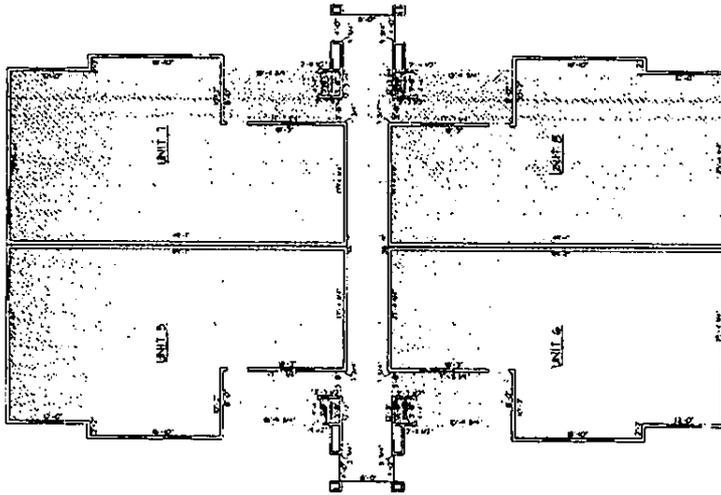


**PARK VIEW AT RIVER WALK PHASE I CONDOMINIUM 5 & TOWNHOMES  
12-FLEX CONDOMINIUM BUILDINGS ABCD**

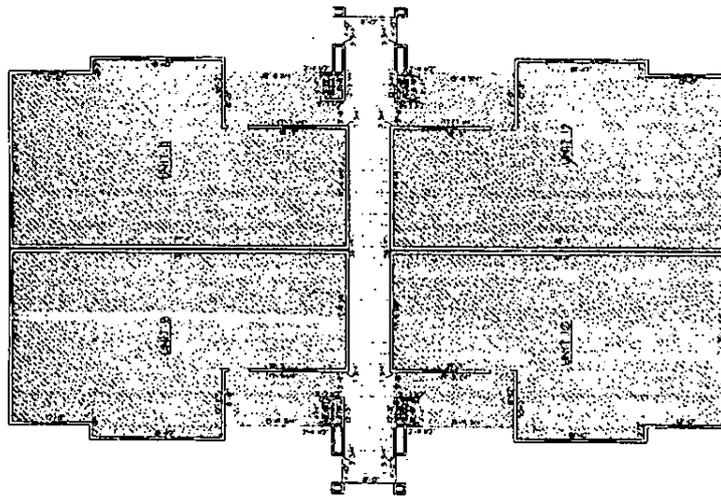
LOCATED IN THE COMMUNITY DISTRICT OF SECTION 13  
TOWNSHIP 10 NORTH RANGE 10 WEST  
MEDICAL BUILDING COMM. UT. 24



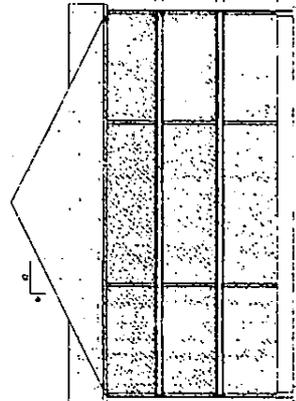
LOWER LEVEL FLOOR PLAN  
DATE: 10/11/10



SECOND LEVEL FLOOR PLAN  
DATE: 10/11/10



THIRD LEVEL FLOOR PLAN  
DATE: 10/11/10



GROSS SECTION  
DATE: 10/11/10

BUILDING FINISH FLOOR ELEVATIONS

FLOOR	FINISH FLOOR ELEVATION	FINISH FLOOR ELEVATION
1	100.00	100.00
2	99.00	99.00
3	98.00	98.00
4	97.00	97.00
5	96.00	96.00
6	95.00	95.00
7	94.00	94.00
8	93.00	93.00



LEGEND  
 [Symbol] PRIVATE DRIVEWAY  
 [Symbol] WALKWAY  
 [Symbol] COMMON AREA  
 [Symbol] COMMON AREA

RECORDED - BOOK 5710  
 PART OF DEED COUNTY OF KANE RECORDS  
 SECTION 13 TOWNSHIP 10 NORTH RANGE 10 WEST  
 MEDICAL BUILDING COMM. UT. 24  
 DATE: 10/11/10

**ARCHITECT**  
 [Logo]  
 1000 N. 1000 W. Salt Lake City, UT 84119  
 PHONE: (801) 464-1000  
 FAX: (801) 464-1001  
 WWW: WWW.ARCADIAARCHITECTS.COM



**EXHIBIT D**

**BYLAWS OF THE ASSOCIATION**

See attached.

**AMENDED & RESTATED  
BYLAWS  
OF  
PARK VIEW AT RIVERWALK  
CONDOMINIUM AND TOWN HOME ASSOCIATION, INC.**

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**AMENDED & RESTATED  
BYLAWS  
OF  
BELMONT DOWNTOWN CONDOMINIUM  
ASSOCIATION, INC.**

The following Amended & Restated Bylaws ("Bylaws") of the Park View at Riverwalk Condominium and Town Home Association, Inc., were adopted this \_\_\_\_ day of \_\_\_\_\_, 2008. These Bylaws are intended to, and do hereby replace and supersede in their entirety, those certain Bylaws of the Association dated May 10, 2007, attached as Exhibit "D" to that certain Combined Declaration of Condominium and Planned Use Development for Parkview at Riverwalk Condominiums and Town Homes, an expandable Utah Condominium and P.U.D. Project, dated May 10, 2007, and recorded in the office of the Salt Lake County Recorder on May 10, 2007, in Book 9462, at Page 5393, as Entry No. 10095781.

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation is Park View at Riverwalk Condominium and Town Home Association, Inc., (the "Association"). The principal office of the Association shall be located at 10421 South Jordan Gateway, Suite 600, South Jordan, Utah 84095, but the meetings of Members and Directors may be held at such places in the State of Utah as may be designated by the Board of Directors.

**ARTICLE II  
APPLICATION OF BYLAWS**

All present and future owners, mortgagees, lessees and occupants of any Unit or Condominium and any other persons who may use the facilities or the Project in any manner are subject to these Bylaws, the "Amended & Restated Declaration of Covenants, Conditions and Restrictions of The Parkview at Riverwalk Condominiums and Town Homes" dated June \_\_\_\_, 2008 (the "Declaration") and all rules made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Unit or Condominium shall constitute an agreement that the provisions of the Declaration and these Bylaws and any rules and regulations made pursuant hereto, as they may be amended from time to time, are accepted, ratified and will be complied with. Certain capitalized terms in these Bylaws shall be defined in accordance with the definition for such terms set forth in the Declaration.

**ARTICLE III  
MEETINGS OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of persons holding an ownership interest in the Association, as authorized and permitted herein (each a "Member" and collectively, the "Members") shall be held within one (1) year from the date of incorporation of

the Association, and each subsequent regular meeting of the Members shall be held on the second Tuesday of each January, at the hour of 7:00 o'clock p.m. at the Project or some reasonable location in Salt Lake County, Utah, or on such other annual date and time fixed from time to time by the Board of Directors and as to which the Members have been given notice. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members maybe called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote twenty-five percent (25%) of all of the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary of the Association or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member 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 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, fifty percent (50%) or more of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration, or these Bylaws. If, however, such a quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented by proxy.

Section 5. Voting. At all meetings of Members, each Member may vote in person, by written ballot, or by proxy. Except as otherwise provided in Section 7 of this Article Three, in the event that ownership of a Unit is jointly held by two or more persons (each a "Joint Owner"), the Association may accept the vote of any one Joint Owner as the vote for such Unit, unless it receives written notice to the contrary from any of the other Joint Owners of such Unit. The Association may accept votes, consents, written ballots, waivers, proxy appointments, and proxy revocations of the Members in accordance with the provisions of UTAH CODE ANN. § 16-6a-713.

Section 6. Action Taken Without a Meeting. Any action that may be taken at any regular or special meeting of the Association may be taken without a meeting if the following requirements are met:

6.1 A written ballot is distributed to every Member entitled to vote setting forth the proposed action, providing an opportunity to signify approval or disapproval of the proposal and providing a reasonable time for the Member to return the ballot to the Association.

6.2 The number of votes cast by ballot within the specified time under subsection 6.1 equals or exceeds the quorum required to be present at a meeting authorizing the action.

6.3 The number of approvals of the action equals or exceeds the number of votes required to approve the action at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot.

6.4 The written ballot distributed to Members affords an opportunity for the Member to specify a choice between approval and disapproval of each order of business proposed to be acted upon by the Association and further provides that the vote of the Members shall be cast in accordance with the choice specified.

In addition to the foregoing, any action that may be taken at any annual or special meeting of Members may be taken without a meeting and without prior notice if the requirements of UTAH CODE ANN. §16-6a-707 have been satisfied.

Section 7. Proxies. At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing or which satisfies the requirements of UTAH CODE ANN. §16-6a-712. The instrument authorizing the proxy to act shall meet the requirements set forth in subsection 6.4 above and shall indicate the name of the secretary of the Association, or such other officer or person or who may be acting as the secretary at the meeting to whom the proxy is to be given for the purpose of casting the vote to reflect the absent Member's vote as specified in the form of proxy. If a Unit is jointly held, the instrument authorizing a proxy to act must have been executed by all Joint Owners of such Unit or their attorneys thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

#### ARTICLE IV BOARD OF DIRECTORS SELECTION, TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors of at least three (3) and no more than seven (7) directors, each of whom shall be a voting member of the Association (each a "Director").

Section 2. Term of Office. At the first annual meeting, the Members shall elect at least one Director for a term of one (1) year, at least one Director for a term of two (2) years, and at least one Director for a term of three (3) years; and at each annual meeting thereafter the Members shall elect replacement Directors for a term of three (3) years. Notwithstanding the foregoing, until such time as the Declarant (as defined in the Declaration) ceases to have the exclusive authority to appoint all Directors, the Directors shall be appointed by the Declarant.

Section 3. Removal. Any Director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association; provided however until such time as the Declarant ceases to have the exclusive authority to appoint all Directors, a Director may only be removed by the Declarant. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Members of the Board of Directors and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 6. Vacancies. If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors, the vacancy may be filled by the Members or by the Board of Directors in accordance with UTAH CODE ANN. §16-6a-810.

#### ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. The provisions of this Article Five shall take effect at such time as the Declarant ceases to have the exclusive authority to appoint all Directors. Nomination for election to the Board of Directors shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The nominating committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected; provided, however until such time as the Declarant ceases to have the exclusive authority to appoint all Directors, the Directors shall be appointed by the Declarant. Cumulative voting is not permitted.

ARTICLE VI  
MEETING OF DIRECTORS

Section 1. Regular Meetings. The Board of Directors shall hold a regular meeting at least quarterly, without notice, at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday in the State of Utah, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) Directors, after not less than three (3) days' notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

ARTICLE VII  
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

1.1 Adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

1.2 Upon reasonable notice and the opportunity for a hearing to a Member, suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

1.3 Adopt and publish rules and regulations, the violation of which may impose a fine on a Member, and adopt the amount of fines and the procedures for giving notice and holding hearings with respect thereto;

1.4 Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles, or the Declaration;

1.5 Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

1.6 Employ a Manager, an independent contractor, and such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

2.1 Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

2.2 Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

2.3 As more fully provided in the Declaration, to:

(a) Fix the amount of the annual assessment against each Unit at thirty (30) days in advance of each annual assessment period;

(b) Send written notice of each assessment to every Owner subject at least thirty (30) days in advance of each annual assessment period; and

(c) Foreclose at its discretion the lien against any Unit for which assessments are not timely paid and/or to bring an action at law against the Owner personally obligated to pay the same.

2.4 Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

2.5 Procure and maintain adequate liability and hazard insurance on property owned by the association, and adequate officers and trustees indemnity insurance, and all other insurance required by the Declaration;

2.6 Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

2.7 Cause the Common Areas and the Condominium Building Exteriors to be maintained;

2.8 Permit First Mortgagees of Units in the Project to pay taxes or other charges which are in default and which may or have become a charge against the Common Areas of the Association, and such First Mortgagees may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property, and such First Mortgagees, upon making such payments, shall be owed immediate reimbursement therefor from the Association; and

2.9 Assess and collect all assessments referred to or authorized in the Declaration.

ARTICLE VIII  
OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice President, a Secretary, and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create. The President and Vice Presidents shall all be members of the Board of Directors, but the other officers need not be members of the Board of Directors and may be persons who are Members and persons who are not Members.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his or her successor is elected and has qualified, unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board of Directors 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 Board of Directors may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at anytime by giving written notice to the Board of Directors, the President or the Secretary. 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. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer maybe 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 Section 4 of this Article Eight.

Section 8. Duties. The duties of the officers are as follows:

President. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; and shall sign all leases, mortgages, promissory notes, checks, deeds and other written instruments.

Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members; keep the

corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board of Directors and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board of Directors.

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 Board of Directors; shall, together with the President, sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit or review of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and statement of income and expenditures, and deliver a copy of each to the Members.

#### ARTICLE IX INDEMNIFICATION OF OFFICERS AND DIRECTORS

The Association shall provide any indemnification required or permitted by the Articles, and the laws of Utah, including without limitation indemnification which may or is required to be provided pursuant to UTAH CODE ANN. §§16-6a-901 to 901, and shall indemnify Directors, officers, agents and employees as follows:

Section 1. Third Party Litigation. The Association shall indemnify any Director or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceedings, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was such Director or officer or an employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee; or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Association Litigation. The Association shall indemnify any Director or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was such a Director or officer of an employee or agent of the Association, or is or was serving at the request of the Association as director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees) actually and reasonably incurred by

him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought, or any other court having jurisdiction in the premises, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnify for such expenses which such court shall deem proper.

Section 3. Expenses. To the extent that a Director or officer of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 or 2 of this Article Nine or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith, without the necessity for the determination as to the standard of conduct as provided in Section 4 of this Article Nine.

Section 4. Determination of Right to Indemnity. Any indemnification under Section 1 or 2 of this Article Nine (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director or officer is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 or 2 of this Article Nine. Such determination shall be made (i) by the Board of Directors of the Association by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (ii) if such a quorum is not obtainable, or even if obtainable, and such a quorum of disinterested Directors so directs, by independent legal counsel (who may be regular counsel for the Association) in a written opinion; and any determination so made shall be conclusive.

Section 5. Advance of Expenses. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding, as authorized in the particular case, upon receipt of an undertaking by or on behalf of the Director or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article Nine.

Section 6. Other Indemnification Rights. Agents and employees of the Association who are not Directors or officers of the Association may be indemnified under the same standards and procedures set forth above, in the discretion of the Board of Directors of the Association.

Section 7. Benefited Parties. Any indemnification pursuant to this Article Nine shall not be deemed exclusive of any other rights to which those indemnified may be entitled and shall continue as to a person who has ceased to be a Director or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person.

ARTICLE X  
COMMITTEES

The Association shall appoint a nominating committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose, and may delegate to such committees the authority to act for the Board of Directors in a manner not inconsistent with the Articles, these Bylaws, the Declaration, or applicable law.

ARTICLE XI  
BOOKS AND RECORDS

Section 1.     Accounting.

1.1     The books and accounts of the Association shall be kept in accordance with reasonable accounting procedures used by similar condominium projects under the direction of the Treasurer.

1.2     At the close of each fiscal year, the books and records of the Association shall be reviewed by an independent public accountant approved by the Association and distributed to all Owners.

Section 2.     Inspection of Records. The membership register, books of account and minutes of meetings of the Association, of the Board of Directors and of committees of the Board of Directors, and all other records of the Project maintained by the association or Manager shall be made available for inspection and copying by any Member of the Association or his duly appointed representative at any reasonable time and for a non-commercial purpose reasonably related to his interest as a Member, at the office where the records are maintained. Upon receipt of an authenticated written request from a Member along with the fee prescribed by the Board of Directors to defray the costs of reproduction, the Manager or other custodian of records of the Association shall prepare and transmit to the Member a copy of any and all records requested. The Board of Directors shall establish reasonable rules with respect to:

2.1     Notice to be given to the custodian of the records by the Member desiring to make the inspection;

2.2     Hours and days of the week when such an inspection may be made; and

2.3     Payment of the cost of reproducing copies of documents requested by a Member.

Every member of the Board of Directors, subject to the conditions set forth above, shall have the absolute right at any reasonable time to inspect and make copies of all books, records and documents of the Association and to inspect all real and personal properties owned or controlled by the Association.

ARTICLE XII  
ASSESSMENTS

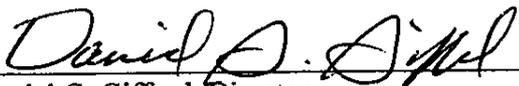
All assessments shall be made in accordance with the general provisions of Article V of the Declaration. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Owners during regular business hours. In accordance with the actions of the Board of Directors in assessing Common Expenses against the Units and Owners, the Treasurer shall keep an accurate record of such assessments and of the payments thereof by each Owner.

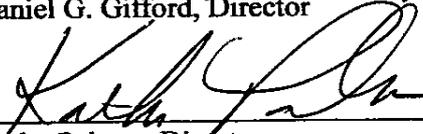
ARTICLE XIII  
AMENDMENTS

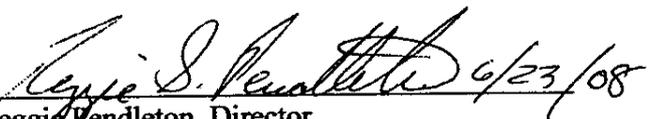
Section 1. Amendment Procedure. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of the Members present in person or by proxy. These Bylaws may also be amended by the Directors as provided in the UTAH CODE ANN. §16-6a- 1010, as amended.

Section 2. Conflict. 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.

IN WITNESS WHEREOF, we, being all of the original Directors of Park View at Riverwalk Condominium and Town Home Association, Inc., have hereunto set our hands this \_\_\_\_ day of June, 2008, and do hereby acknowledge that the affirmative vote of all of the Members of the Association has been obtained in connection with the amendment and restatement of the foregoing Bylaws of the Association.

  
\_\_\_\_\_  
Daniel G. Gifford, Director

  
\_\_\_\_\_  
Kathy Palmer, Director

  
\_\_\_\_\_  
Reggie Wendleton, Director