

When Recorded Return To:

MORRIS SPERRY
7070 South Union Park Center
Suite 220
Midvale, Utah 84047

**FIRST AMENDMENT TO THE
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF
THREE FOUNTAINS – PROVO CONDOMINIUMS
AND
FIRST AMENDMENT TO THE BY-LAWS OF THREE FOUNTAINS – PROVO**

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF THREE FOUNTAINS – PROVO CONDOMINIUMS AND FIRST AMENDMENT TO THE BY-LAWS OF THREE FOUNTAINS-PROVO (the “Amendment”) is entered as of October 11, 2016, 2016, by the Three Fountains-Provo Homeowners Association, Inc., a Utah nonprofit corporation (the “Association”).

RECITALS

- A. The DECLARATION OF CONDOMINIUM OF THREE FOUNTAINS – PROVO, PHASE 1, CONDOMINIUM for the Association was recorded with the Utah County Recorder’s office on December 6, 1972, as Entry No. 19303 in Book 1306 beginning at Page 143.
- B. A SUPPLEMENTARY DECLARATION OF CONDOMINIUM OF THREE FOUNTAINS – PROVO, PHASE 2, CONDOMINIUM for the Association was recorded with the Utah County Recorder’s office on September 24, 1973, as Entry No. 17592 in Book 1344 beginning at Page 678.
- C. An AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF THREE FOUNTAINS – PROVO for the Association was recorded with the Utah County Recorder’s office on August 27, 1991, as Entry No. 33690 in Book 2827 beginning at Page 161.
- D. An AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF THREE FOUNTAINS – PROVO CONDOMINIUMS for the Association was recorded with the Utah County Recorder’s office on December 13, 1996, as Entry No. 100494 in Book 4145 beginning at Page 10. This AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF THREE FOUNTAINS – PROVO CONDOMINIUMS (the “Declaration”) was recorded with the Utah County Recorder’s office for a second time on August 3, 2012, as Entry No. 65136:2012.
- E. This Amendment affects the real property located in Utah County, State of Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated herein by reference.

F. The By-Laws of Three Fountains-Provo (the "Bylaws") are attached as Exhibit "B" to the Declaration.

G. The Association and the Unit Owners desire to amend the Declaration, and the Bylaws, as set forth in this Amendment. This Amendment includes changes to the assessment and budget approval for the Association and the Association's voting requirements in the Bylaws.

H. In conjunction with amending the Association budget approval process, if at least seventy-five percent (75%) of the undivided interests in the Common Areas and Facilities of the Association approve this Amendment, then these Unit Owners and the Association further approve any and all prior budgets, or revised budgets, for prior years, of the Association and the expenditures set forth therein, including expenditures for any Capital Improvements.

I. Unless otherwise set forth herein, the capitalized terms shall have their same meanings and definitions as stated in the Declaration.

J. This Amendment was approved by at least seventy-five percent (75%) of the total undivided interests in the Common Areas and Facilities of the Association through written ballots received by the Association prior to the recording of this Amendment.

NOW, THEREFORE, in consideration of the foregoing Recitals, the Association hereby executes this Amendment to the Declaration, which Amendment shall be effective as of its recording date with the Utah County Recorder's office.

1) **Amendment No. 1.** Section 11 of the Declaration is deleted in its entirety and replaced by the following new Section 11:

11. **Assessments.** Every Unit Owner shall pay his proportionate share of the Common Expenses. Payment thereof shall be in such amounts and at such times as the Management Committee determines in accordance with the Act, the Declaration or the Bylaws. There shall be a lien for non-payment of Common Expenses as provided by the Act. No Unit Owner may exempt himself from his contribution towards the Common Expenses by waiver of the use of enjoyment of any of the Common Areas and Facilities or by abandonment of the Owner's Unit.

In assessing Unit Owners or requiring Owners to pay for the Common Expenses, and Capital Improvements, the Management Committee shall first propose a budget, or a revised budget, to the Unit Owners setting forth such expenditures and the Owners must approve such budget as provided in Section 15 of the Declaration.

2) **Amendment No. 2.** Section 15(c) of the Declaration is deleted in its entirety and replaced by the following new Section 15(c):

c) **Budget.** The Management Committee shall prepare a proposed budget for each fiscal year setting forth the anticipated expenditures for the Association's Common Expenses, including Capital Improvements, for the next twelve (12) month calendar year, commencing with the following January 1. The budget shall estimate

the total Common Expenses to be incurred for the fiscal year, which shall be broken down into reasonably detailed expense categories. The budget may include reserves, contingencies, Capital Improvements expenditures, and other estimates of expenditures as the Management Committee deems appropriate. The budget must be approved at a regular or special meeting of the Owners by a majority, greater than fifty percent (50%), of the undivided interests in the Common Areas and Facilities of the Association represented in person or in proxy at the meeting. (This is not a majority of the total undivided interests in the Common Areas and Facilities of the Association but only a majority of those undivided interests in the Common Areas and Facilities represented at the meeting.) In the event that the budget for the next calendar year is not approved at the annual meeting, the Association shall operate under the same terms of the budget for the current calendar year until a new or revised budget is approved at a special meeting of the Owners.

In the event that the Management Committee determines the estimate of total charges for the current budgeted year is, or will become, inadequate to meet all Common Expenses, including expenditures for any Capital Improvements, for any reason, including nonpayment of any Owner's assessments, the Management Committee may then revise the budget and each Owner's share of the new budget total. The revised budget must be approved at a regular or special meeting of the Owners by a majority, greater than fifty percent (50%), of the undivided interests in the Common Areas and Facilities of the Association represented in person or in proxy at the meeting. (This is not a majority of the total undivided interests in the Common Areas and Facilities of the Association but only a majority of those undivided interests in the Common Areas and Facilities represented at the meeting.) Once the revised budget is approved by the Owners, each Owner shall thereafter pay to the Association the Owner's adjusted regular assessment in equal monthly installments, which Owner's assessment is based on the Unit Owner's undivided interest in the Common Areas and Facilities.

3) **Amendment No. 3 (Amending the Association's Bylaws)**. Article III, Section 6 of the Bylaws (which are attached as Exhibit "B" to the Declaration) is deleted in its entirety and replaced by the following new Article III, Section 6:

6. Unless a different voting percentage related to any particular issue is required by the Declaration, the Bylaws, Utah's Condominium Ownership Act (Utah Code Ann. § 57-8-1 *et seq.*), the Utah Revised Nonprofit Corporation Act (Utah Code Ann. § 16-6a-101 *et seq.*), or other applicable laws, when a quorum is present at a duly called meeting of the Association, the vote of Unit Owners representing of a majority, greater than fifty percent (50%), of the undivided interests in the Common Areas and Facilities represented in person or in proxy at the meeting, shall decide any question of business brought before such meeting, including the election of the Management Committee. (This is not a majority of the total undivided interests in the Common Areas and Facilities of the Association but only a majority of those undivided interests in the Common Areas and Facilities represented at the meeting.) All votes of Unit Owners may be cast either in person or by proxy. All proxies shall

be in writing, and shall be delivered to the Secretary at least three (3) days prior to the duly called meeting.

4) **Conflicts.** All remaining provisions of the Declaration and any prior amendments not specifically amended in this Amendment shall remain in full force and effect. In the case of any conflict between the provisions of this document and the provisions of the Declaration or any prior amendments, the provisions of this document shall in all respects govern and control.

5) **Incorporation and Supplementation of Declaration.** This document is supplemental to the Declaration, which by reference is made a part hereof, and all the terms, definitions, covenants, conditions, restrictions, and provisions thereof, unless specifically modified herein, are to apply to this document and are made a part hereof as though they were expressly rewritten, incorporated, and included herein.

IN WITNESS WHEREOF, the Association has executed this FIRST AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF THREE FOUNTAINS – PROVO CONDOMINIUMS AND FIRST AMENDMENT TO THE BY-LAWS OF THREE FOUNTAINS-PROVO as of the day and year written above.

**THREE FOUNTAINS-PROVO
HOMEOWNERS ASSOCIATION, INC.,** a Utah
nonprofit corporation

By: Kathleen P. Cloward
Name: Kathleen P. Cloward
Its: Chairman of HOA Committee

STATE OF UTAH)
SS:
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 11th day of October, 2016, by Kathleen Cloward, as Chairman of THREE FOUNTAINS-PROVO HOMEOWNERS ASSOCIATION, INC., a Utah nonprofit corporation.

Matthew Todd Traynor
Notary Public

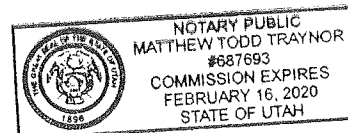


EXHIBIT A

(Legal Description of Property)

The land described in the foregoing document is located in Utah County, Utah and is described more particularly as follows:

Phase 1:

COMMENCING at a point located East along the Section Line 338.10 feet and South 759.03 feet from the West Quarter corner of Section 18, Township 6 South, Range 3 East, Salt Lake Base and Meridian, and running thence North 20 deg 30' East 434.25 feet; thence East 278.78 feet; thence South 54.41 feet; thence East 154.00 feet; thence South 57.00 feet; thence East 194.00 feet; thence South 6deg 52' East 320.04 feet; thence West 147.31 feet; thence South 0 deg 08' East 31.01 feet; thence South 89 deg 52' West 120.0 feet; thence North 0 deg 08' West 55.00 feet; thence South 89 deg 52' West 549.74 feet to the point of BEGINNING.

Phase 2:

Commencing at a point located East along the section line 1170.94 feet and South 912.55 feet from the West quarter corner of Section 18, Township 6 South, range 3 East, Salt Lake Base and Meridian, thence South 89 deg 52' West 870.24 feet; thence North 11 deg 05' East 117.93 feet; thence North 20 deg 30' East 42.02 feet; thence North 89 deg 52' East 549.74 feet; thence South 0 deg 08' East 23.71 feet; thence East 267.31 feet; thence South 6 deg 52' East 131.58 feet to the point of beginning, containing an area 2.860 acres.

ALSO, Commencing at a point located East along the Section line 928.61 feet and South 254.17 feet from the West quarter corner of Section 18, Township 6 South Range 3 East, Salt Lake Base and Meridian, thence North 89 deg 52' East 163.00 feet; thence South 6 deg 52' East 211.89 feet; thence West 194.00 feet; thence North 57.00 feet; thence West 154.00 feet; thence North 54.41 feet; thence West 278.78 feet; thence North 20 deg 30' East 47.69 feet; thence North 307.40 feet; thence North 89 deg 52' East 391.10 feet; thence South 6 deg 52' East 62.45 feet; thence South 89 deg 52' West 63.46 feet; thence South 121.00 feet; thence East 78.05 feet; thence South 6 deg 52' East 71.81 feet to the point of beginning, containing an area 4.191 acres.

Phases 1 and 2 consist of Unit Nos. 1 through 86.