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7/23/2015 9:55:00 AM \$168.00  
Book - 10345 Pg - 9419-9429  
Gary W. Ott  
Recorder, Salt Lake County, UT  
MORRIS SPERRY  
BY: eCASH, DEPUTY - EF 11 P.

When Recorded Return To:

John D. Morris  
MORRIS SPERRY  
7070 South Union Park Center, Suite 220  
Midvale, Utah 84043

**SECOND AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
RESIDENCES AT PARK AVENUE**

This Amendment is made and executed this 21 day of July, 2015, by Park Avenue LLC (the "Declarant").

Recitals

A. The DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR RESIDENCES AT PARK AVENUE was recorded on April 8, 2013, in the Salt Lake County Recorder's office as Entry No. 11613892, Book 10125, beginning at Page 4084 (the "Declaration").

B. Exhibit A of the Declaration identifies certain real property located within the Project, which real property is hereinafter referred to as Phase 1 Property and Phase 2 Property.

C. The FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR RESIDENCES AT PARK AVENUE was recorded on March 18, 2015 in the Salt Lake County Recorder's office as Entry No. 12013061, Book 10306, beginning at Page 800 (the "First Amendment").

D. The First Amendment identifies the real property referred to as the Phase 3 property and adds the Phase 3 Property to the Project. Exhibit A to the First Amendment replaced Exhibit A to the Declaration.

E. The Plats for Phase 1, Phase 2, and Phase 3 have also been recorded in the Salt Lake County Recorder's office.<sup>1</sup>

F. Pursuant to Article 22, Section 22.8 of the Declaration, the Declarant may add land to or withdraw land from the Project at any time and for any reason.

G. The Declarant desires to withdraw the Phase 3 Property from the Project. The remaining property, Phase 1 Property and Phase 2 Property, is identified on Exhibit A attached hereto.

H. Declarant now intends that the Phase 3 Property shall be withdrawn from and no longer be subject to the Declaration. The Phase 3 Property is identified on Exhibit C attached hereto.

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<sup>1</sup> Unless otherwise set forth herein, defined terms used in this Amendment shall have the same meaning as that set forth in the Declaration.

I. The Declarant also desires to make other changes to the terms and conditions of the Declaration.

NOW, THEREFORE, pursuant to the foregoing Recitals which are incorporated herein by reference, the Declarant hereby makes and executes this SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RESIDENCES AT PARK AVENUE (the "Second Amendment"), which shall be effective as of its recording date.

1. Withdrawal of Phase 3 Property. Declarant hereby declares that the Phase 3 Property, attached as Exhibit C below, shall be withdrawn from the Project and no longer be subject to the Declaration upon recordation of this Second Amendment.

2. Total Number of Units Revised. As shown on the plat for the Phase 3 Property, Phase 3 contains lots for the construction of 20 units. Upon Recordation of this Second Amendment, the total number of Units in the Project will be reduced by 20 Units to a total of 109. Article 2, Section 2.2 of the Declaration is deleted in its entirety and replaced with the following:

2.2 Nature of the Project. The Project is a townhome-style community containing 109 Units in 38 separate buildings. It includes roadways, parking areas, and open space. The Project is not a cooperative and is not a condominium.

3. Allocated Interests Revised. With the withdrawal of the Phase 3 Property, the revised Allocated Interests applicable to each Unit within the Project is expressed as the percentage set forth in the document attached hereto identified as Exhibit B.

4. Second Amendment's Exhibits Replace Declaration's Exhibits.<sup>2</sup> The exhibits attached hereto and identified as Exhibit A and Exhibit B shall replace the Exhibits A and B attached to the Declaration and any amendments thereto. Exhibit A sets forth the legal description for the Phase 1 Property and Phase 2 Property. Exhibit B sets forth the revised Allocated Interests for the Units.

5. Additions and Amendments:

a. Article 6, section 6.1(p) is amended by the addition of the following:

The Association and the Board have no authority to enter into any bulk service agreement for cable television, other television, internet, telephone or similar services if such agreement is either: (1) a contract for a period greater than two years, or (2) the contract contains an automatic renewal term, unless such renewal is only effective upon the affirmative approval of the Board.

b. Article 22, Section 22.3 is deleted in its entirety and replaced by the following:

Control Period. Declarant shall the right to retain control, power and authority over,

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<sup>2</sup> The Exhibit C to the Declaration shall remain in effect.

and all decision-making ability or authority for, the Association and/or the Project during the "Control Period. The Declarant shall determine whether to hire professional management during the Control Period. The Control Period shall extend until the Declarant elects, in writing, to terminate the Control Period. Notwithstanding the Declarant's election to terminate the Control Period, all of the Declarant's rights under Article 22, Sections 22.4, 22.5, 22.7, 22.8, 22.9, 22.10, 22.11, 22.12, 22.13, and 22.14, shall extend until the later of six months after the termination of the Control Period or January 31, 2016. This Section 22.3 shall not be substantively or procedurally altered without the written consent of the Declarant until fourteen (14) years have passed after the Control Period has ended, at which time Declarant's approval shall no longer be required.

- c. Article III, Section 3.2 of the Bylaws, is deleted and replaced in its entirety by the following:

3.2 Meetings.

- (a) Regular Meetings. The Management Committee shall hold regular meetings at least quarterly, and more often at the discretion of the Management Committee.
- (b) Who is Entitled to Attend. Management Committee Members, Owners, and Owner representatives (if designated in writing) may attend meetings and may be present for all discussions, deliberations, and decisions except when the Management Committee is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance, including a requirement that they remain silent except when comments are solicited by the Management Committee.
- (c) Owner Comment Period. Owners in attendance at the meeting shall be permitted a reasonable opportunity to offer comments, which may be limited to one period during the meeting.
- (c) Attendance by Telephone or other Means. The Management Committee may allow attendance and participation at any meeting of the Management Committee by telephone or any other means that allows for the Management Committee Members to hear each other during the meeting (electronic communication).
- (d) Special Meetings. Special meetings of the Management Committee may be called by or at the request of any two (2) Management Committee Members or the President of the Association. Notice of any special meeting shall be given at least 48 hours prior thereto to each Management Committee Member. No notice of special meetings is required to be provided to Owners, although any Owner may attend any special meeting if the Owner appears at the physical location of the meeting in person.
- (e) Quorum and Manner of Acting. Three (3) Management Committee Members shall constitute a quorum for the transaction of business at any meeting of the Management Committee. The act of a majority of the

Management Committee Members present at any meeting at which a quorum is present and for which proper notice was provided to the Management Committee Members shall be the act of the Management Committee, provided, however, that if only three (3) members of the Management Committee are present, then any decision by such quorum of three must be unanimous to be the act of the Management Committee. The Management Committee Members shall act only as a Management Committee, and individual members shall have no powers as such.

(f) Place and Notice of Meetings.

- (1) The Management Committee may designate any place in Salt Lake County as the place of meeting for any regular meeting called by the Management Committee, but shall in good faith attempt to hold meetings at the Project or in as close a proximity to the Project as reasonably possible.
- (2) All Management Committee Members and Owners shall be given at least ten (10) days' notice of regular meetings. Owners requesting notice of regular meetings by email shall be provided email notice at the email address the Owner provides not less than 48 hours before the meeting. No notice is required to Owners of a Management Committee meeting if: (a) the meeting is to address an emergency; and (b) each Management Committee Member receives notice of the meeting less than 48 hours before the meeting.
- (3) The notice to Owners in part (2) above shall include: (a) the time and date of the meeting, (b) the location of the meeting, and (c) if a Management Committee Member may participate by means of electronic communication, the information necessary to allow a Unit Owner to participate by the same means of electronic communication.

(g) Executive Session.

- (1) The Management Committee or a Committee may, by motion and a vote, continue deliberations and discussions in executive session for the reasons allowed in these Bylaws. The Management Committee may exclude Owners and others from any part of executive session portion of the meeting. If the Management Committee enters executive session, they shall discontinue any executive session by motion and a vote.
- (2) Executive sessions may be held to discuss and make decisions related to the following matters:
  - (i) consult with an attorney for the purpose of obtaining legal advice,
  - (ii) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings,
  - (iii) discuss personnel matters,
  - (iv) discuss matters relating to contract negotiations, including

- review of a bid or proposal,
  - (v) discuss matters involving an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or
  - (vi) discuss delinquent assessments or fines.
- (3) The discussions in executive session shall be confidential and shall not be disclosed to anyone outside of the meeting except as authorized by the Management Committee or the Committee.
  - (4) Documents analyzed in executive session may be confidential for other reasons provided for by law or in the Governing Documents, but they are not confidential merely as a result of having been discussed or presented in executive session
  - (5) The minutes of the meeting at which an executive session is held shall include:
    - (i) The purpose(s) of the executive session in sufficient detail. For example, the following are sufficient descriptions: "To discuss the terms of a management contract with XYZ Company," or "To discuss the pending litigation with XYZ."
    - (ii) Any decisions made during executive session.
  - (6) Care shall be taken so that attorney-client privileged information is not disclosed in minutes that are made available to anyone outside of members of the Management Committee or the Committee.

d. Article III, Section 3.3 of the Bylaws, is deleted and replaced in its entirety by the following:

3.3 Informal Action and Action by Management Committee Members without a Meeting.

- (a) Any action that is required or permitted to be taken at a meeting of the Management Committee may be taken without a meeting if:
  - (1) written notice of the action is provided to each Management Committee Member,
  - (2) sufficient written and signed affirmative votes or consents are received in response to the written notice, and
  - (3) no Management Committee Member demands in writing that action not be taken without a meeting.
- (b) Action is taken under this section and is effective only if the affirmative vote for the action equals or exceeds the minimum number of votes that

would be necessary to take the action at a meeting at which all of the Management Committee members then in office were present and voted.

- (c) A Management Committee Member may revoke and change any response to any action by communicating in writing that the member has changed his or her vote, with a description of the action. To be effective, the revocation must be received before receipt of the final consent necessary for the action to be effective.
- (d) An action approved of pursuant to this section is effective on the date indicated in the notice for the time to respond, if the responses necessary to satisfy this section have been received by the Management Committee.
- (e) Action taken pursuant to this section has the same effect as action taken at a meeting of the Management Committee and may be described as an action taken at a meeting of the Management Committee Members in any document.
- (f) Notice under 3.3(a)(1) shall state, at a minimum:
  - (1) the action to be taken,
  - (2) the time by which the director must respond to the notice, and
  - (3) that failure to respond by the time stated in the notice will have the same effect as abstaining and failing to demand in writing that the action not be taken without a meeting.
- (g) For purposes of this section:
  - (1) "Signed" or "signature" is an indication on the document, whether paper or electronic, that the document is from and consented to by the person who is purported to have sent it. For example, a return address from the known address of the sender on an email satisfies the requirement for a signature.
  - (2) "Writing" shall refer to an email, letter, facsimile, or any other physical or electronic document.
  - (3) Communications may be by email, facsimile, hand-delivery, mail, or other electronic or physical means.
  - (4) Any response to any electronic communication shall be:
    - (i) To the address of the sender using the same address and means of communication as was used to send the request for consent of an action, such as email, facsimile, or hand-delivery; or
    - (ii) To any address in regular use, electronic, telephonic, or physical, by the person sending the request.

6. Conflicts. All remaining provisions of the Declaration and any prior amendments

not specifically amended in this Second Amendment shall remain in full force and effect. In the event 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 govern and control in all respects.

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EXECUTED this 21 day of JULY, 2015.

PARK AVENUE LLC

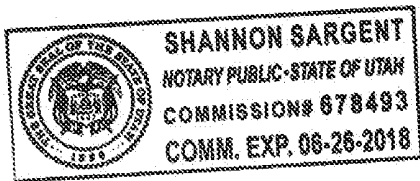
By: [Signature]

Its: Manager

STATE OF UTAH )  
 )ss:  
COUNTY OF Salt Lake

On the 21 day of JULY, 2015, personally appeared before me Brad Reynolds, the signer of the foregoing SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RESIDENCES AT PARK AVENUE on behalf of Park Avenue LLC, who duly acknowledged to me that he executed the same.

[Signature]  
Notary Public





## EXHIBIT A

### LEGAL DESCRIPTION

#### PHASE 1

Beginning at a point on the West Right-of-Way Line of 1830 West Street, said point being South 89°58'55" West 721.50 feet along the Section Line and South 406.02 feet from the North Quarter Corner of Section 34, Township 3 South, Range 1 West, Salt Lake Base and Meridian; and running thence South 550.24 feet along the West Right-of-Way of said 1830 West Street; thence North 89°58'34" East 1.92 feet along the West Right-of-Way of said 1830 West Street; thence South 00°04'11" East 79.39 feet along the West Right-of-Way of said 1830 West Street; thence Southwesterly 39.44 feet along the arc of a 20.00 foot radius curve to the right (center bears South 89°55'49" West and the chord bears South 56°25'49" West 33.36 feet with a central angle of 113°00'00") along the West Right-of-Way of said 1830 West Street to the Northerly Right-of-Way Line of Park Avenue; thence North 67°04'11" West 68.86 feet along the Northerly Right-of-Way of said Park Avenue; thence Northwesterly 276.49 feet along the arc of a 682.50 foot radius curve to the left (center bears South 22°58'30" West and the chord bears North 78°37'51" West 274.60 feet with a central angle of 23°12'41") along the Northerly Right-of-Way of said Park Avenue; thence South 89°45'49" West 192.78 feet along the Northerly Right-of-Way of said Park Avenue; thence South 85°57'01" West 47.20 feet along the Northerly Right-of-Way of said Park Avenue; thence North 655.12 feet; thence East 311.52 feet; thence South 83.88 feet; thence East 286.75 feet to the point of beginning.

Contains 376,851 Square Feet or 8.651 Acres.

#### PHASE 2

Beginning at a point on the West Right-of-Way Line of Redwood Road, said point being South 89°58'55" West 32.73 feet along the Section Line and South 659.99 feet from the North Quarter Corner of Section 34, Township 3 South, Range 1 West, Salt Lake Base and Meridian; and running thence South 00°01'25" East 329.21 feet along the West Right-of-Way Line of said Redwood Road; thence South 89°58'34" West 626.66 feet to the East Right-of-Way Line of 1830 West Street; thence North 12°26'26" West 33.79 feet along the East Right-of-Way Line of said 1830 West Street; thence South 89°58'34" West 4.97 feet along the East Right-of-Way Line of said 1830 West Street; thence North 296.47 feet along the East Right-of-Way Line of said 1830 West Street; thence East 638.77 feet to the point of beginning.

Contains 210,108 Square Feet or 4.823 Acres

## EXHIBIT B

Unit #	%
101-172, 201-237	.9174
Total	100%

**EXHIBIT C**

**LEGAL DESCRIPTION OF PHASE 3  
REMOVED FROM THE PROJECT**

BEGINNING AT A POINT 8.00 FEET WEST AND SOUTH 00°16'33" WEST 1320.77 FEET AND SOUTH 89°53'46" EAST 862.16 FEET FROM THE NORTHWEST CORNER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 89°45'34" EAST 404.00 FEET TO A POINT ON 15 FOOT RADIUS CURVE TO THE RIGHT, THENCE ALONG SAID CURVE A DISTANCE OF 23.56 FEET THROUGH A CENTRAL ANGLE OF 89°59'33" (CHORD BEARS N 45°14'13" W 21.21). THENCE SOUTH 00°14'26" EAST 132.26 FEET, THENCE SOUTH 00°28'33" EAST 115.79 FEET, THENCE NORTH 89°53'46" WEST 420.58 FEET TO BEGINNING

CONTAINS 106,642 SQUARE FEET  
2.622 ACRES, MORE OR LESS