

After recordation, return to:



**Independence Avenue, LLC**  
2230 No. at University Parkway, Bldg. 7G  
Provo, UT 84604



ENT 41477:2013 PG 1 of 4  
**JEFFERY SMITH**  
**UTAH COUNTY RECORDER**  
2013 Apr 30 1:06 pm FEE 52.00 BY SS  
RECORDED FOR PROVO CITY CORPORATION

**THIRD SUPPLEMENTAL DECLARATION TO**  
**DECLARATION OF PROTECTIVE EASEMENTS,**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**(Including Owner Association Bylaws)**

**INDEPENDENCE AVENUE**  
**An Expandable Planned Unit Development**  
**Provo City, Utah County, Utah**

**THIS THIRD SUPPLEMENTAL DECLARATION** (the "Third Supplemental Declaration") to the above entitle Declaration is made this 30<sup>th</sup> day of April, 2013, by **INDEPENDENCE AVENUE LLC.**, a Utah limited liability company ("Declarant"), in its capacity as the owner and developer of **Independence Avenue**, a residential expandable planned unit development (the "Development"), pursuant to the following:

**RECITALS:**

- A. On or about June 1, 2007, Declarant caused to be recorded in the Public Records the Development's first subdivision plat entitled **Independence Avenue Plat A** as Entry 80972:2007 Map # 12298 (the "Original Plat"). Concurrently with such recording, Declarant also caused to be recorded in the Public Records as Entry 80973 :2007 Pages 1-30, that certain **Declaration of Protective Easements, Covenants, Conditions and Restrictions (Including Owner Association Bylaws)** (the "Original Declaration") pertaining to the to the Development.
- B. Pursuant to §3.03 and 3.04 of the Original Declaration, Declarant is permitted to annex Additional Land into the Development by Supplemental Declaration for purposes of adding additional Lots/Units and Common Area to the Development consistent with those set forth in the Original Plat and the Original Declaration.
- C. Declarant desires hereby to annex a portion of the Additional Land described in the Original Declaration, into the Development as **Independence Avenue Plat D**, and to make certain necessary amendments to the Original Declaration.

**NOW, THEREFORE**, Declarant hereby declares as follows:

1. All defined terms as used in this Third Supplemental Declaration (including the preamble and RECITALS) shall have the same meaning as those set forth and defined in the Original Declaration.

2. That certain real property located in Provo City, Utah County, Utah, described in **EXHIBIT A**, attached hereto and made a part hereof, is hereby submitted to the provisions of the Original Declaration and is annexed into the Development as Plat D to be held, improved, sold, transferred, conveyed and occupied as a part thereof:

**TOGETHER WITH** all easements, rights-of-way, and other appurtenances and rights or obligations incident to, appurtenant to, or accompanying the above-described Property, whether or not the same are reflected on the Plats.

**RESERVING UNTO DECLARANT**, however, such easements and rights or obligations of ingress and egress over, across, through, and under the said Property and any improvements (including Buildings) now or hereafter constructed thereon as may be reasonably necessary for Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) to construct and complete each of the Units and all of the other improvements described in the Original Declaration or any Supplemental Declaration, or on the Plats, and to do all things reasonably necessary or proper in connection therewith; (ii) to construct and complete on the said Property or any portion thereof such improvements as Declarant shall determine to build and add to the Development; and (iii) to improve portions of the Property with such other or additional improvements, facilities, landscaping and television, or other communication systems designed for the use and enjoyment of all the Owners as Declarant may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the Property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire 15 years after the date on which this Third Supplement to Declaration is recorded in the Public Records.

**THE FOREGOING IS SUBJECT TO:** (i) all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; (ii) all Patent reservations and exclusions; (iii) all mineral reservations of record and rights incident thereto; (iv) all instruments of record which affect the above-described Property or any portion thereof, including, without limitation, any mortgage (and nothing in this paragraph shall be deemed to modify or amend such mortgage); (v) all visible easements and rights-of-way; (vi) all easements and rights-of-way, encroachments, or discrepancies shown on or revealed by, a Plat or otherwise existing; (vii) an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the Property at such time as construction of all Development improvements is complete; (viii) all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cable, wires, utility lines, and similar facilities; and (ix) **TO EACH OF THE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THE ORIGINAL DECLARATION AS IT MAY BE AMENDED BY THIS THIRD SUPPLEMENT TO DECLARATION.**

3. Section 3.02 of the Original Declaration is amended in its entirety to read as follows:

**3.02 Division into Lots and Units.** The Development is hereby divided into 128 numerically numbered Lots and Units, as set forth and described on the Plats, with appurtenant and equal rights and easements of use and enjoyment in and to the Development's Common Areas, as well as appurtenant obligations pertaining to Assessments, maintenance, and similar matters, all as set forth in the Original Declaration and the Bylaws embodied therein.

4. Except as amended by the provisions of this Third Supplemental Declaration, the Original Declaration shall remain unchanged, and, together with this Third Supplemental Declaration, shall constitute the entire Declaration of Protective Easements, Covenants, Conditions and Restrictions for the Development, as expanded by the annexation of the Additional Land described in Paragraph 2, above.

5. This Third Supplemental Declaration shall be recorded concurrently with the Development's Plat entitled **Independence Avenue Plat D**, as the same has been executed and acknowledged by Declarant, accepted by the City, and filed for record in the Public Records.

**EXECUTED**, by the Declarant the day and year first above set forth.

**INDEPENDENCE AVENUE, LLC**

By   
John L. Dester, a Manager

**ACKNOWLEDGMENT**

STATE OF UTAH     )  
                              : ss.  
COUNTY OF UTAH   )

The within instrument was acknowledged before me this 30<sup>th</sup> day of April, 2013, by **John L. Dester** in the capacity indicated.

  
NOTARY PUBLIC



**EXHIBIT A**  
**TO**  
**THIRD SUPPLEMENTAL DECLARATION**  
**INDEPENDENCE AVENUE**  
**Provo City, Utah County, Utah**

Real property located in Provo City, Utah County, Utah:

***BOUNDARY DESCRIPTION***

A PARCEL OF LAND IN THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION; THENCE NORTH 793.96 FEET AND WEST 2220.17 FEET SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE S58°26'07"W 132.75 FEET; THENCE S31°33'53"E 140.03 FEET; THENCE S58°26'07"W 223.43 FEET; THENCE N37°08'18"W 327.73 FEET; THENCE N58°26'13"E 270.53 FEET; THENCE N31°33'47"W 103.52; THENCE N58°26'07"E 117.50 FEET; THENCE S31°33'47"E 289.65 FEET TO THE POINT OF BEGINNING. CONTAINING 2.64 ACRES.