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09/23/96 1:09 PM 30.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
AMERICAN PROWS ONE LLC  
10 W BRADWAY #311 SLC 84101  
REC BY:V ASHBY ,DEPUTY - WI

FIRST SUPPLEMENT TO  
DECLARATION OF  
CONDOMINIUM  
OF  
HERITAGE TOWNHOMES  
(PHASE 2)

THIS FIRST SUPPLEMENT TO DECLARATION OF CONDOMINIUMS is made and executed this 16th day of September, 1996, by American-Prows One, L.L.C., a Utah Limited Liability Company with its principal place of business in Salt Lake City, State of Utah (hereinafter referred to as "Declarant").

RECITALS:

A. On or about the \_\_\_\_ day of August, 1996, Declarant made and executed that certain "Declaration of Condominium of Heritage Townhomes" with respect to the certain real property located in Salt Lake County, State of Utah, more particularly described therein and now known as Heritage Townhomes (herein the "Declaration"), which Declaration was recorded in the office of the County Recorder of Salt Lake County, State of Utah, on the \_\_\_\_ day of August, 1996, in Book \_\_\_\_, beginning at Page \_\_\_\_, as Entry No. \_\_\_\_\_.

B. Under the terms of the Declaration, Declarant reserved the right to add certain additional real properties ("Additional Land" or portions thereof) to the provisions of the Declaration and now desires to do the same in order to further the intent of the Declarant as expressed in the Declaration.

NOW, THEREFORE, in consideration of the recitals set forth hereinabove, the Declarant hereby declares and certifies as follows:

1. Submission of Phase II. Declarant hereby submits the following described real properties, and its interests therein, to the terms, conditions, restrictions, covenants and easements to the terms of the Declaration, as amended:

SEE SCHEDULE "A" ATTACHED HERETO

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described real property (the real property).

BK 7494PG0230

ALL OF THE FOREGOING IS SUBJECT TO all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the real property or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Map or otherwise existing; an easement for each and every pipeline, cable, wire, utility line, or similar facility which traverses or partially occupies the real property at such time as construction of all Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through and under the real property and any improvements now or hereafter constructed thereon as may be reasonable necessary for Declarant or for any assignee or successor of Declarant (in a manner which is reasonable and not inconsistent with the provisions of the Declaration): (i) an easement for ingress and egress for the benefit of the Additional Land, however developed or utilized, over the real property described on Exhibit "D" attached to the Declaration, whether or not the Additional Land, or portions thereof, is part of the Project; (ii) to construct and complete each of the Units in any Building and all of the other improvements described in the Declaration or in the Map recorded concurrently herewith, and to do all things reasonably necessary or proper in connection therewith; (iii) to improve portions of the real property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant or as such assignee or successor may reasonably determine to be appropriate; and (iv) to construct and complete each of the Units, Buildings and other improvements to be constructed upon any Additional Land or portion thereof intended to be included within the Project. If, pursuant to the foregoing reservations, the real 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 including the perpetual easement specified in (i) above, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire seven (7) years after the date on which the Declaration was filed for record in the office of the County Recorder of Salt Lake County, State of Utah.

2. Amendment to Exhibit "B". Declarant hereby supplements and amends the Declaration by the filing of Amended Exhibit "B" (Phases 1 and 2) attached hereto and incorporated herein by reference.

3. Supplemental Map. The real properties described in Paragraph 1, and the improvements to be constructed thereon, all of which are submitted to the terms and conditions of the Declaration, are more particularly set forth on a supplemental Map pertaining to the same, which supplemental Map shall be recorded with this Supplement.

4. Representations of Declarant. Declarant represents as follows:

a. The annexed real property is part of the Additional Land as identified in the Declaration.

b. By the annexation of the real property described in paragraph 1, the total number of Units when completed, will equal twelve (12).

5. Lender's Agreement of Subordination. By its execution of this Supplement, Wells Fargo Bank, National Association, successor by merger to First Interstate Bank of Utah, N.A. (hereinafter "Phase II Lender"), agrees, covenants and declares that this First Supplement to Declaration shall be senior in priority to: (i) the Deed of Trust with Assignment of Rents, made as of 8/24/95, 1995, between \* See Below, as "Trustor," and \*\* See Below, as "Trustee" and Phase II Lender as "Beneficiary" (hereinafter "Trust Deed"), which Trust Deed was recorded on 8/25, 1995, as Entry No. 6151243, in Book 7714, beginning at page 1086 of the Official Records of Salt Lake County, (ii) N/A (hereinafter the "Security Agreement"), which Security Agreement was recorded on N/A, 1995, as Entry No. N/A, in Book N/A, beginning at page N/A of the Official Records of Salt Lake County, and that said Trust Deed and Security Agreement shall be subordinate to and subject to this First Supplement to Declaration notwithstanding the fact that this First Supplement to Declaration is recorded later in time than the Trust Deed and Security Agreement.

6. Effective Date. This Supplemental Declaration, and the Supplemental Map relative to this addition, shall take effect upon their being filed for record in the office of the County Recorder of Salt Lake County, Utah.

\*American-Prows One, L.L.C., a Utah Limited Liability Company

\*\*First Interstate Bank of Utah, N.A.

EXECUTED the day and year first above written.

DECLARANT:

AMERICAN PROWS ONE, L.L.C.,  
a Utah Limited Liability Company

By *Richard Strou*  
Manager

AND

By *[Signature]*  
Manager

PHASE II LENDER:

Wells Fargo Bank, National Association,  
successor by merger to First  
Interstate Bank of Utah, N.A.

By: *Teel Budner*  
Its: *Vice President*

STATE OF UTAH )  
 : SS  
COUNTY OF SALT LAKE )

On the 6<sup>th</sup> day of September, 1996, personally appeared before me Richard S. Prows and Sergio Alvarez, who being by me duly sworn, did say that they are Managers of American-Prows One, L.L.C., a Utah Limited Liability Company, and that the foregoing Supplemental Declaration was signed on behalf of said company by authority of the Operating Agreement or a resolution of its members, and said Managers acknowledged to me that said company executed the same.

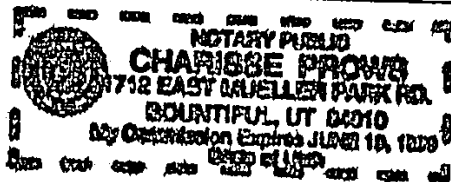
My Commission Expires:

June 19, 1999

STATE OF UTAH )  
 : SS  
COUNTY OF SALT LAKE )

Charisse Prows  
NOTARY PUBLIC, Residing at:

1712 E. Mueller Park Rd. Butte



The foregoing instrument was acknowledged before me this 6 day of September 1996, by \_\_\_\_\_, the authorized \_\_\_\_\_ of Wells Fargo Bank, National Association.

My Commission Expires:

\_\_\_\_\_

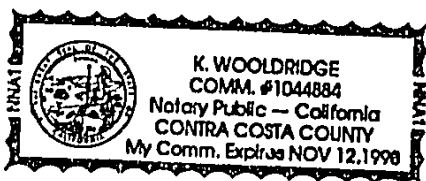
NOTARY PUBLIC, Residing at:

\_\_\_\_\_

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California  
 County of Contra Costa  
 On 9/16/96 before me, K. Wooldridge  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
 personally appeared Ted Bodnar  
Name(s) of Signer(s)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

K. Wooldridge  
Signature of Notary Public

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

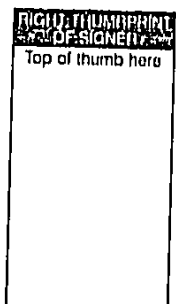
Title or Type of Document: \_\_\_\_\_  
 Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_  
 Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer
- Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

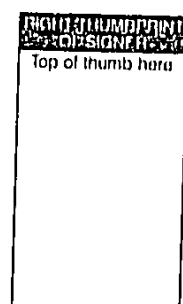
Signer Is Representing:  
 \_\_\_\_\_  
 \_\_\_\_\_



Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer
- Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing:  
 \_\_\_\_\_  
 \_\_\_\_\_



BK 7494PG0235

SCHEDULE "A"  
to  
First Supplement to Declaration of Condominium of  
Heritage Townhomes

(Legal Description of Additional Land)

PHASE TWO:

Contains 20,478 Square Feet

Sidwell Nos.

Real property located at approximately 5138 South 2700 West, Salt Lake City, Salt Lake County, State of Utah, and more particularly described as follows, to wit:

BEGINNING at a point North 00°14'53" West 1819.64 feet and East 387.53 feet and North 270.48 feet from the South Quarter Corner of Section 9, Township 2 South, Range 1 West, Salt Lake Base & Meridian; thence West 130.08 feet; thence North 47.47 feet; thence West 22.73 feet; thence North 93.60 feet; thence East 152.81 feet; thence South 141.07 feet to the point of BEGINNING. Contains 20,478 square feet or 0.47 acres, more or less.

AMENDED EXHIBIT "B"  
 to  
 First Supplement to Declaration of Condominium of  
 Heritage Townhomes  
 (A Utah Expandable Condominium Project)  
 (Phases 1 & 2)  
 (Percentage Interest)

<u>BLD</u>	<u>UNIT NO. &amp; STYLE</u>	<u>SIZE</u>	<u>PERCENTAGE INTEREST</u>	<u>VOTES</u>
2	AL	1120	6.81	6.81
2	BL	1421	8.64	8.64
2	CL	1569	9.55	9.55
2	AR	1120	6.81	6.81
2	BR	1421	8.64	8.64
2	CR	1569	9.55	9.55
3	AL	1120	6.81	6.81
3	BL	1421	8.64	8.64
3	CL	1569	9.55	9.55
3	AR	1120	6.81	6.81
3	BR	1421	8.64	8.64
3	CR	1569	9.55	9.55
Totals		16,440	100.00%	100.00