

## SECOND AMENDMENT TO DECLARATION OF EASEMENTS

This Second Amendment to Declaration of Easements (the "Second Amendment") is entered into effective December 5, 2011, between Emigration Oaks Property Owners Association, Inc., (the "Association" or "EO POA"), and Snowberry Development, LC, and Snowberry Ridge HOA, Inc. (collectively "Snowberry") (collectively, all individuals and entities named herein shall be referred to as "the Parties).

### RECITALS:

- A. The Association is a nonprofit homeowners association which owns the private road system (the "Roads") within the Emigration Oaks PUD, consisting of Emigration Oaks PUD Phases 1A, 2A, 2B, 3, 5, 6 and 6A and Estates at Emigration Oaks Phase 4 PUD and Estates at Emigration Oaks Phase 4A PUD, all as according to the plats thereof as recorded in the office of the Salt Lake County Recorder, Utah (collectively "EO").
- B. The Association is the successor in interest to The Boyer Company, City Development, Inc. Pioneer Fork Road Owner's Association, in regard to the Roads and common areas of EO.
- C. Snowberry Development, LC is the developer of Snowberry Ridge PUD Amended and Extended subdivision, as shown on that plat map recorded December 24, 2008, as Entry No. 10585427 in the records of the Salt Lake County Recorder, Utah ("SR PUD"). Snowberry Development, LC is also the owner of seven of the eight residential lots within the SR PUD.
- D. Snowberry Development, LC is a successor in interest to those entities referred to as EMBC, BIC and Bertagnole in the Declaration of Easements and Amendment to Declaration of Easements described hereafter.
- E. Snowberry Ridge HOA, Inc. ("SR Association") is the assignee of common areas within the SR PUD, and has an interest in assuring access to the Lots within the SR PUD.
- F. A Declaration of Easements was recorded July 10, 1985, as Entry No. 4108682 in the records of the Salt Lake County Recorder, Utah ("Declaration of Easements"), which, among other things, provided for the access and use of land which now comprises the SR PUD and the Lots contained therein.
- G. An Amendment to Declaration of Easements was recorded on October 23, 1989, as Entry No. 4838512, in the records of the Salt Lake County Recorder, Utah.
- H. The land referred to as Tract C in the Declaration of Easements, as amended, is now encompassed within EO, and all Private Roads as that term is used in the Declaration of Easements, as amended, are included as the Roads. The Roads and Common Areas within EO are owned by the Association.
- I. The Declaration of Easements established an affirmative obligation on the part of the SR PUD Lot owners to participate in the cost of maintenance and repair of the Roads.
- J. The parties have executed this Second Amendment to Declaration of Easements to clarify the rights and obligations of the SR PUD Lot owners.

NOW THEREFORE, in consideration of this Second Amendment to Declaration of Easements and other terms and conditions which are contained herein and in the Declaration of Easements, as amended, the parties agree as follows:

1. Effect of Amendment. This Amendment is intended to clarify and to resolve any questions between the Parties in regard to the effect and interpretation of the Declaration of Easements, and to modify and amend the easements granted therein and the obligation for assessments described therein.

2. Tract C. The land described as Tract C in the Declaration of Easements is hereby enlarged to include all of the Roads (referred to as "Private Roads" in the Declaration of Easements) which are contained within the lands described in those subdivision Plats of EO, namely, Emigration Oaks PUD Phases 1A, 2A, 2B, 3, 5, 6 and 6A, Estates at Emigration Oaks Phase 4 PUD, and Estates at Emigration Oaks Phase 4A PUD, all as described in the plats thereof as recorded in the office of the Salt Lake County Recorder, Utah.

3. Grant of Easements. The Grant of Easements described in Section 2 of the Declaration of Easements is amended to include a new paragraph at the end of Section 2 which reads as follows:

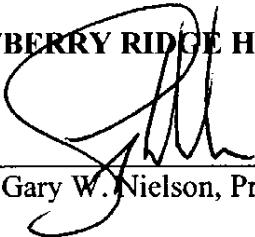
The Association hereby grants to Snowberry and all Lot Owners within the SR PUD, and their successors and assigns, a perpetual non-exclusive easement, and right of use in all of the Roads and Common Areas of EO and the Association, subject to such reasonable rules and limitations as are applicable generally to lot owners within EO and the Association. The easement granted herein shall benefit Snowberry and all Lot owners within the SR PUD, and their respective guests, invitees, successors and assigns. All of the foregoing are included as "Benefitted Parties" under said Section 2.

3. Assessments. The provisions of Section 3 of the Declaration of Easements are hereby amended to clarify the obligation of SR PUD Lot owners to pay assessments as provided in said Section 3. The Owners of Lots in SR PUD will be obligated to pay Assessments as set forth and provided under Article XIII, Section 13.1 of that First Amendment to the Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Snowberry Ridge PUD Amended & Extended ("First Amendment"), which First Amendment is recorded on the same date as this Second Amendment to Declaration of Easements. Except as provided in said First Amendment, neither the Association, nor any other person claiming rights in the Roads, including owners of Lots in EO, shall have any rights to make assessments or to assert charges against Snowberry and/or the Owners of Lots in the SR PUD.

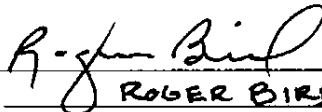
4. Exclusive Benefit. Nothing herein shall be construed to grant any person who is not named herein or which is not a Party herein, any rights, duties or obligations, or to affect the rights, duties or obligations of any other person affected by the Declaration of Easements. This Second Amendment to Declaration of Easements applies exclusively to the Parties and others named herein.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Declaration of Easements.

**SNOWBERRY RIDGE HOA, INC.**

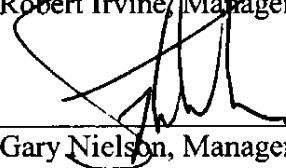
By:   
Gary W. Nielson, President

**EMIGRATION OAKS PROPERTY OWNERS ASSOCIATION, INC.**

By:   
By: ROGER BIRD  
Its: PRESIDENT

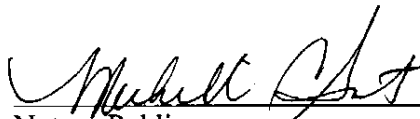
**SNOWBERRY DEVELOPMENT, LC**  
**For Itself and on Behalf of Lot Owners of**  
**Snowberry Ridge PUD, Amended and Extended**

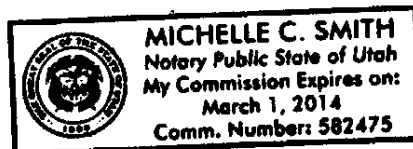
By:   
Robert Irvine, Manager

By:   
Gary Nielson, Manager

State of Utah            )  
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County of Salt Lake    )

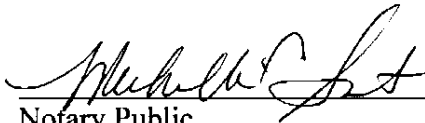
On the 10<sup>th</sup> day of November, 2011, personally appeared before me Gary W. Nielson, who acknowledged that he is the authorized officer of the **Snowberry Ridge HOA, Inc.**, a Utah non-profit corporation and that this instrument was signed on behalf of the said corporation by authority of its Board of Trustees.

  
Notary Public



State of Utah )  
:SS  
County of Salt Lake )

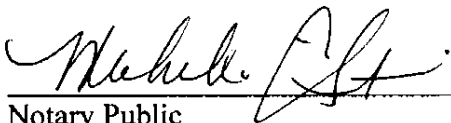
On the 10<sup>th</sup> day of November, 2011, personally appeared before me Robert Irvine, who acknowledged that he is a Manager of **Snowberry Development, LC**, a Utah limited liability company, and that this instrument was signed on behalf of the said company by authority of its Members.

  
\_\_\_\_\_  
Notary Public



State of Utah )  
:SS  
County of Salt Lake )


On the 10<sup>th</sup> day of November, 2011, personally appeared before me Gary Nielson, who acknowledged that he is a Manager of **Snowberry Development, LC**, a Utah limited liability company, and that this instrument was signed on behalf of the said company by authority of its Members.

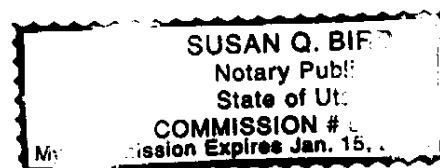
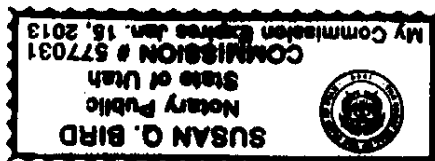
  
\_\_\_\_\_  
Notary Public



State of Utah )  
:SS  
County of Salt Lake )

On the 5<sup>th</sup> <sup>December</sup> day of ~~November~~, 2011, personally appeared before me Roger Bird who acknowledged that they are the authorized officer of **EMIGRATION OAKS PROPERTY OWNERS ASSOCIATION, INC.**, a Utah non-profit corporation, and that this instrument was signed on behalf of the Association by authority of its Board of Trustees.

  
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Notary Public



**EXHIBIT A**

**Legal Description**

All lots in the following subdivisions:

- (1) Emigration Oaks PH 3 PUD
- (2) Emigration Oaks PH 5 PUD
- (3) Emigration Oaks PH 6 PUD
- (4) Emigration Oaks PH 6A PUD
- (5) Estates at Emigration Oaks PH 4 PUD
- (6) EST Emigration Oaks Emigration Oaks 4A PUD