

Recorded DEC 22 2008 Filing No. 76394

At 1:29 PM in Book T10 Page 319

Fee \$197.00 Debra L. Ames Rich County Recorder

Requested by Adamson & Hoggan, LLC

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

**DECLARATION OF ANNEXATION AND CERTIFICATE OF AMENDMENT  
TO AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION  
RE: EL L CO TERRACE**

This Declaration of Annexation and Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Swan Creek Village Homeowners Association is made on this 17<sup>th</sup> day of December, 2008, by SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION, a Utah nonprofit corporation (hereinafter referred to as "Swan Creek").

WHEREAS, the association caused to be recorded an Amended and Restated Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration") with the Office of the Rich County Recorder, Filing No. 75597, Book No. R10, Pages 0073-0093, October 3, 2008;

WHEREAS, at the time the Declaration was recorded, the property subject to the Declaration, identified on the Swan Creek Village Subdivision Plat, included Plat 1 and Phase 2 of Swan Creek Village (the "Property");

WHEREAS, the Declaration acknowledged that it was to ultimately govern that certain real property known as the El L Co Terrace Subdivision, located in Rich County, Utah, previously governed by the El L Co Terrace Homeowners Association ("El L Co");

WHEREAS, El L Co Terrace Subdivision consists of 23 Lots, including two park lots that in the spring of 2005 were owned by El L Co (Block 1, Lot 1 and Block 2, Lot 1);

WHEREAS, in the spring of 2005, the Board of Directors of both Swan Creek and El L Co determined it was in the best interests of both homeowners associations to merge, that El L Co's assets and liabilities would be assumed by Swan Creek; that the two water systems owned and maintained separately by each association would be combined; and that El L Co's lot owners would be Swan Creek members;

WHEREAS, in the spring of 2005, the Board of Directors of both Swan Creek and El L Co adopted a plan of merger and memorialized this plan in writing in that certain *Membership Agreement between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association, including Water Transfer Agreement* (the "Membership Agreement") which is attached hereto as Exhibit A;

WHEREAS, the Membership Agreement outlined, *inter alia*, the members of El L Co would join Swan Creek, accept the responsibilities and enjoy the benefits of membership; El L Co would transfer ownership of the two El L Co park lots to Swan Creek; the two water systems would be combined, the water system assets, including water rights, would be transferred by El L

Co to Swan Creek, and Swan Creek would be responsible to operate, administer, maintain and control the water system; and Blaine Thornock, then President of El L Co, would be appointed to the Swan Creek Board of Trustees for the specific purpose of assisting in and facilitating the transactions and transfer contemplated by the Membership Agreement;

WHEREAS, on or about June 4, 2005, the El L Co Board of Directors made a corporate resolution that authorized Blaine R. Thornock, as President, and Kevin Wells, as Secretary, to execute the Membership Agreement on behalf of El L Co. *See* Corporate Resolution attached as the last page of Exhibit A;

WHEREAS, the plan of merger and the Membership Agreement were presented by the El L Co Board of Directors to the members of El L Co and 13 of the 23 Lot El L Co Terrace Subdivision Lot Owners (not including the two lots owned by El L Co), more than the requisite number of El L Co members required by Utah law, executed individual signature pages that were incorporated into the Membership Agreement (*See* Membership Agreement at Exhibit A and the accompanying signature pages representing the consent of 13 of the 23 Lots);

WHEREAS, the plan of merger was presented to and ratified by the members of Swan Creek at the 2005 Annual Meeting;

WHEREAS, the Declaration which acknowledges the merger of El L Co and Swan Creek, which amended and restated the original Declaration, as amended, that previously governed Swan Creek, was approved by 90% of votes cast by written ballot by the members of Swan Creek, which included the former El L Co members, the result of which expressly ratified the merger of El L Co and Swan Creek;

WHEREAS, once all responsibilities contemplated by the Membership Agreement had been completed by the parties, including the transfer of the park lots and the final transfer of El L Co's water rights was being finalized, the former members of El L Co were granted an additional opportunity to ratify the merger of El L Co and Swan Creek;

WHEREAS, more than the requisite number of former El L Co owners required by Utah law again ratified the merger by express instrument representing the following lots in El L Co Terrace Subdivision: Lots 1, 2, 3, 4, 9, 10 and 11 of Block 1 and All Block 2 Lots - Lots 1 through 12 (*See* related *Membership Consent & Ratification* attached hereto as Exhibit B);

WHEREAS, the Declaration, as amended, provides for the annexation of additional land contiguous with and adjacent to the Property subject to the Declaration;

WHEREAS, consistent with the provisions of Article 8 of the Declaration, all Lots contained in the El L Co Terrace Subdivision (hereinafter referred to as the "Annexed Properties"), shall automatically become subject to the Declaration, shall constitute covenants running appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the Annexed Properties, and subject to the jurisdiction of Swan Creek;

NOW THEREFORE, the Declaration shall be amended as follows:

1. The elected directors and officers of Swan Creek and El L Co adopted a plan of merger to merge the two Utah nonprofit corporations.

2. The plan of merger was presented to and approved by the requisite number of members of both Swan Creek and El L Co.

3. All assets formerly owned by El L Co, including the El L Co water system and the two park lots located in El L Co Terrace Subdivision, have been transferred to Swan Creek as contemplated by the Membership Agreement (see *Special Warranty Deeds* recorded in the office of the Rich County Recorder on June 14, 2005, Filing Nos. 65902 and 65903, Book A10, Pages 1684-1691).

4. The water rights previously owned by El L Co have either been transferred or are in the process of being transferred to Swan Creek as contemplated by the Membership Agreement.

5. The Annexed Properties which includes all 23 lots located within the El L Co Terrace Subdivision, more specifically described in Exhibit C attached hereto, shall be annexed into Swan Creek and shall be governed by the Declaration.

6. All references to the Property, as previously defined in the Declaration are hereby amended to include the Annexed Properties specifically described in Exhibit C.

7. The Annexed Properties shall automatically become subject to the Declaration, shall constitute covenants running appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the Annexed Properties, and subject to the jurisdiction of Swan Creek.

8. The undersigned, being the Declarant herein and fully authorized, has executed this Second Declaration Of Annexation And Certificate Of Amendment To Amended And Restated Declaration Of Covenants, Conditions And Restrictions For Swan Creek Village Homeowners Association.

DECLARANT:

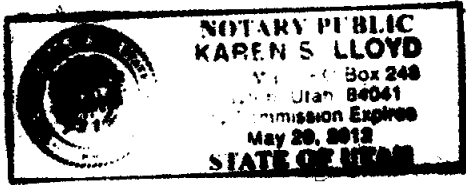
**SWAN CREEK HOMEOWNERS  
ASSOCIATION, INC.**



By: T. Lorin Thompson  
Its: President

STATE OF UTAH                    )  
  : SS.  
COUNTY OF DAVIS                )

I hereby certify that on the 14 day of Nov., 2008, personally appeared before me T. Lorin Thompson, who, being by me first duly sworn, declared that he is the person who signed the foregoing document, is duly authorized to sign in his capacity as President of the Swan Creek Village Homeowners Association and that the statements therein contained are true.



*Karen S. Lloyd*  
\_\_\_\_\_  
NOTARY PUBLIC



**MEMBERSHIP AGREEMENT BETWEEN  
SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION  
AND  
EL L CO TERRACE HOMEOWNERS ASSOCIATION,  
INCLUDING  
WATER SYSTEM TRANSFER AGREEMENT**

THIS AGREEMENT (the "Agreement") is made and entered into this 4 day of June, 2005, by and between SWAN CREEK VILLAGE HOMEOWNERS' ASSOCIATION, a Utah non-profit corporation ("Swan Creek") and EL L CO TERRACE HOMEOWNERS' ASSOCIATION, a Utah non-profit corporation ("El L Co"). Swan Creek and El L Co are sometimes referred to herein individually, as a "Party" and collectively, as the "Parties."

**PURPOSE**

The purpose of this Agreement is to allow members of the the El L Co Terrace Homeowners Association to become members of the Swan Creek Village Homeowners Association and to combine the separate water systems of the Parties into a single system operated and owned by Swan Creek Village Homeowners Association.

**RECITALS**

WHEREAS, Swan Creek is a non-profit corporate entity organized for the purpose of operating and maintaining the development known as the Swan Creek Village Recreational Housing Project, which currently exists in two phases, known as Swan Creek Village Phase 1 and Swan Creek Village Phase 2, and;

WHEREAS, El L Co is a non-profit corporate entity organized for the purpose of operating and maintaining the development known as the El L Co Terrace Subdivision, and:

WHEREAS, Swan Creek and El L Co each currently operate and maintain water distribution systems for the purpose of providing culinary water to lots owned by members of their respective homeowners' association, and;

WHEREAS, Swan Creek and El L Co entered into a Water System Lease Agreement on May 5, 1994, the essential purposes of which is to (1) provide Swan Creek access to culinary water from a well owned by El L Co, and (2) provide a method by which El L Co obtains funds to operate and maintain its portion of the Water System; and

WHEREAS, the Parties have now determined that it would be in the best interests of the members of their respective homeowners' associations that the El L Co Water System Assets be sold and transferred to Swan Creek for operation by Swan Creek as part of a consolidated water system, and;

WHEREAS, the Board of Directors of Swan Creek deem it advisable and in the best interests of Swan Creek and its members that transfer of El L Co's interests be made as set forth herein for the purposes as described herein, and;

WHEREAS, the Board of Directors of El L Co deem it advisable and in the best interests of El L Co and its members that transfer of El L Co's interests be made as set forth herein for the purposes as described herein, and;

WHEREAS, Swan Creek will be substantially benefited by the consummation of the transactions contemplated by this Agreement, and but for the fact that Swan Creek has agreed to make certain representations and warranties to and covenants with El L Co, El L Co would not enter into this Agreement, and;

WHEREAS, El L Co will be substantially benefited by the consummation of the transactions contemplated by this Agreement, and but for the fact that El L Co has agreed

to make certain representations and warranties to and covenants with Swan Creek, Swan Creek would not enter into this Agreement, and;

WHEREAS, in furtherance of this objective, and in consideration of the Recitals, Representations and Warranties set forth herein, the respective boards of Swan Creek and El L Co, being fully authorized, hereby agree as follows:

## AGREEMENT

### ARTICLE 1

#### INTERPRETATION

1.1 **Definitions.** In this agreement, unless something in the subject matter or context is inconsistent herewith, the following terms shall have the following meanings:

1.1.1 **"Accounts Receivable"** means those trade accounts receivable and miscellaneous accounts receivable of the Parties that pertain to their respective Water System Assets as of the closing date recorded in the financial books and records of the Parties, including but not limited to homeowner assessments relating to the Water System Assets now due and owing.

1.1.2 **"Books and Records"** means all books, records, including, but not limited to, all financial books and records, documents, manuals, files and papers of the Parties used in connection with the operation of El L Co Water System Assets, agreements with governmental entities and authorities, agreements and records pertaining to the water system.

1.1.3 **"Closing"** means the consummation of the consolidation of the assets contemplated by this Agreement.

1.1.4 "El L Co Water System Assets" means all the properties, assets, interests and rights of El L Co of every kind and description, wherever situated, real, personal, mixed, tangible or intangible, used in connection with the operation of the water system serving the El L Co Homeowners Association and the Swan Creek Village Homeowners Association, including those assets set forth in Schedule 1.1.4, and also including, without limitation;

- a. All accounts receivable;
- b. That Water System Lease Agreement entered into between the Parties, dated May 5, 1994;
- c. All right and interest in and to pending, and/or executory contracts, agreements and arrangements, written and oral, to and by which the Parties or either of them are bound or affected, including, without limitation, real and personal property leases, and service agreements;
- d. All licenses, permits, filings, authorizations, approvals, or indicia of authority, including, without limitation all licenses and permits described in Schedule 1.1.4;
- e. All books and records of El L Co that relate to the water system;
- f. All good will of El L Co. that relates to the water system.

1.1.5 "Laws" means all laws, statutes, codes, ordinances, decrees, rules, regulations, municipal bylaws, judicial or arbitral or administrative judgments, orders, decisions, rulings, or awards or any provisions of such laws which are binding on a party or person referred to in the context in which such word is used.



1.1.6 **"Liens"** means any and all liens, mortgages, charges, pledges, security interests, prior assignments or other encumbrances and claims, rights, restrictions and other interests of any nature and kind whatsoever which affect, by way of a conflicting ownership interest or otherwise, in any manner whatsoever, title to any property.

1.1.7 **"Members"** means individuals or entities who are members of Swan Creek Village Homeowners' Association and/or El L Co Terrace Homeowners' Association.

1.1.8 **"Related Agreements"** means agreements that are signed in conjunction with or related to the agreements, consolidation and transfers contemplated in this Water System Agreement, including, but not limited to, agreements relating to the transfer of assets contemplated herein.

1.1.9 **"Remaining Obligations"** means any liabilities of El L Co not otherwise specifically identified herein that relate to the transferred El L Co Water System Assets. Remaining Obligations shall include, but not be limited to, accounts payable, litigation claims, administrative claims, and claims by governmental entities. Any Remaining Obligations that are assumed pursuant to the terms of this agreement are specifically identified and set forth in Schedule 1.1.9 herein.

1.1.10 **"Transfer"** means the transfer of the water system assets to Swan Creek designated to hold title to the assets defined herein, including the combined water system assets, the lots on which the water system assets are now situated and designated water rights held by El L Co.

1.1.11 **"Water System"** means the water system assets of each respective party.

1.1.12 **"Water System Lease Agreement"** means that Lease Agreement between the Parties dated May 5, 1994. A copy of the Water System Lease Agreement is set forth in Exhibit 1.1.12.

1.2 **Amendment.** No amendment to the agreement shall be effective or binding unless in writing and signed by the Parties hereto.

1.3 **Applicable Law.** The agreement shall be governed by and construed in accordance with the laws of the State of Utah and shall be treated in all respect as a Utah state contract.

1.4 **Assignment. Consent.** The agreement shall not be assigned by any party hereto without the written consent of the other Party. In all instances where action requires the consent of Swan Creek or El L Co, such consent shall not be unreasonably withheld or delayed.

1.5 **No Benefit to Third Parties.** The provisions of this agreement are not intended to and shall not, benefit any person or entity other than the Parties to this agreement or create any third party beneficiary rights to any person or entity.

1.6 **Jurisdiction.** Each party hereto irrevocably submits to the jurisdiction of the Third Judicial District Court in Salt Lake County, Utah, over any action or proceeding arising out of or relating to this agreement.

## ARTICLE 2

### TRANSFER OF WATER SYSTEM ASSETS

2.1 **Transfer of El L Co Water System Assets.** On or before the Closing Date, El L Co shall sell and transfer its Water System Assets to Swan Creek. Swan Creek shall hold El L Co's Water System Assets and shall operate, administer, maintain and control the Water System. Swan Creek shall be designated as manager of the water system. Consideration for the sale of the EL L Co Water System Assets shall be (1) the warranties and representations set forth in this Agreement and (2) TEN DOLLARS (\$10.00) and other good and valuable consideration and (3) full membership in Swan Creek Village Homeowners Association to all El L Co Terrace Subdivision Lot owners with full rights and responsibilities enjoyed by Swan Creek Homeowners Association Members.

2.2 **Maintenance of the Water System.** Swan Creek shall operate and maintain all physical aspects of the Water System and shall make such repairs and improvements as may be reasonably required to service the needs and demands of the Members of the parties thereto resulting from normal use and wear and tear or acts of nature, as may be reasonably necessary to maintain the required delivery capacity of the Water System.

2.3 **Assessment Rights.** Each El L Co member shall be assessed in the same manner and under the same amounts as a member of Swan Creek HOA. All El L Co lot owners will be full fledged members of Swan Creek Homeowners association. All 19 El L Co lots are presently hooked to the water system and shall not be assessed additional

hook on fees. El L Co owners understand they are responsible for hook on fees charged by any Garden City Sewer District and Idaho Power. EL L Co further agrees to pay any hook on fees they would be responsible for had this merger not taken place.

2.4 **Water Rights Transfer.** El L Co agrees that, as part of the transfer to Swan Creek, the water rights as set forth in Schedule 2.4 shall be conveyed to Swan Creek.

2.5 **Rights of Way/Easements.** El L Co agrees to grant to Swan Creek all easements in, across, and under such lots as necessary to carry out the terms of this agreement provided, however, that easements in or across any lot within the El L Co Terrace Subdivision owned by a Member shall be granted only by written permission from the owner(s) of the lot(s). El L Co hereby agrees to deliver to Swan Creek all documents deemed necessary by government or quasi-governmental agencies with jurisdiction over the subject matter of this agreement in order to fully carry out its terms.

2.6 **Future Appropriated Water Rights.** El L Co agrees to assign to Swan Creek all right, title and interest in all future appropriated and/or perfected rights to water diverted or allowed to be diverted from the well.

2.7 **Termination of Lease Agreement.** Swan Creek and El L Co specifically agree that upon the completion of the transfers as contemplated herein, and performance of the obligations as set forth herein, the Water System Lease Agreement shall be terminated.

2.8 **Allocation of Water.** As pertaining to the current well and corresponding well permits, as identified in Schedule 1.1.4, this transfer is made upon the condition that the El L Co/Swan Creek Village Water System be used first to continue to provide all

water needed by El L Co Terrace Subdivision Lots, and all remaining capacity thereafter (the "excess capacity"), be used to provide short term fire fighting capability to the lots in Swan Creek Village subdivision. Should any applicable government regulations preclude such use of the excess capacity for part of all of the Swan Creek Village subdivision culinary uses anticipated, then the system shall be used only by Swan Creek Village Homeowners Association to the extent so allowed. In the case of immediate need to protect any lives or structures or personal property located on or within the exterior boundaries of the Swan Creek Village subdivision, including the El L Co Terrace Subdivision, against fire damage, the entire combined capacity of the water systems of both El L Co Terrace and Swan Creek Village Subdivisions and not just the excess capacity of either system may so be used.

**2.9 Sewer Utility Hookup.** The Swan Creek Village Homeowners Association agrees to allow and cooperate with and refrain from protesting in any way any applications made by El L Co or its members or lot owners on Broadhollow Road or roads connecting to it between the north end of phase 1 of the Swan Creek Subdivision and Highway 89 to obtain sewer utility connections. For each lot making application, sewer utility connections shall be of the same grade and quality as those provided to the owners of lots in the Swan Creek Village Subdivision. All connection fees to accomplish the objective of this provision shall be paid to the Garden City Sewer District as per whatever fee schedule the El L Co Terrace Owners or others may negotiate with the Garden City Sewer District. No additional charge shall be assessed or levied by Swan Creek Village Homeowners Association for sewer utility connections. The El L Co Terrace Homeowners Association has caused to be prepared and signed at its expense the

necessary right of way documents and sewer easements in favor of the Garden City Sewer District pertaining to the sewer lines which the Swan Creek Village Homeowners Association was responsible for placing on property not now owned by Swan Creek Village Homeowners Association.

2.10 Any and all provisions in the Water System Lease Agreement that are designated to survive termination of the Water System Lease Agreement shall be declared null and void and will have no continuing effect.

### ARTICLE 3

#### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

As a material inducement to the Parties to enter into this Agreement and any related agreements, and to consummate the transactions contemplated by this Agreement and any related agreements, the Parties make to each other the following representations and warranties.

3.1 **Corporate Organization.** Swan Creek and El L Co are each a nonprofit corporation duly organized, validly existing in good standing under the laws of the State of Utah.

3.2 The Parties hereby represent that each of them has the full capacity, right, power and authority to enter into, execute and deliver this Agreement and any related Agreements necessary to consummate the transactions contemplated by this Agreement and any Related Agreements. Neither the execution of this Agreement or any Related Agreements, nor the consummation of the transactions contemplated thereby, nor compliance by either of the Parties with any of the provisions of this Agreement nor any Related Agreement will:

3.2.1 Conflict with, violate, result in a breach of, constitute a default under, or give rise to any right of termination, cancellation or acceleration under any agreement with a third party, either related or unrelated; or

3.2.2 Violate any law of any government or any governmental agency or body, or any judgment, order, writ, injunction or decree of any court.

**3.3 Consents and Approvals.** Except as set forth on Schedule 3.3, the execution, delivery and performance of this Agreement and any Related Agreements by either of the Parties will not require any notice to, or consent, authorization or approval from any court, governmental authority or any other third party. Except as set forth on Schedule 3.3, all notices, consents, authorizations and approvals have been made and obtained.

**3.4 Liens and Remaining Obligations.** El L Co represents and warrants to Swan Creek that the Water System Assets transferred pursuant to this Agreement are free and clear of any and all Liens. El L Co further represents and warrants to Swan Creek that it shall continue to hold and be liable for any remaining obligations for which it may be liable after transfer of the assets contemplated under this Agreement. El L Co hereby agrees to indemnify and hold Swan Creek harmless for any and all claims, causes of actions or other actions brought by any third party arising out of or relating to any Liens and/or Remaining Obligations retained by El L Co pursuant to the terms of this Agreement.

#### **ARTICLE 4**

**4.1 Successors and Assigns.** This Agreement shall be binding on, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

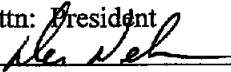
4.2 **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

4.3 **Cooperation.** After the closing date, each party will, from time to time, upon request of the other party, without further consideration, execute, acknowledge and deliver in proper form any further instruments and take such other action as such other party may reasonably require, in order to effectively carry out the intent of this agreement.

4.4 **Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service, if served personally on the party to whom notice is to be given or on the date of receipt by the party to whom notice is to be given if transmitted to such party by telefax, telecopier, or other means of instantaneous communication, or on the fourth day after mailing if mailed to the party to whom notice is given by registered or certified mail, return receipt requested, postage prepaid to the following addresses:

Swan Creek

Attn: President

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With copies to:

Dart Adamson & Donovan


Attn: Eric P. Lee

370 East South Temple, Suite 400

Salt Lake City, Utah 84111

El L Co

Attn:

  
\_\_\_\_\_



\_\_\_\_\_  
\_\_\_\_\_  
With copies to:  
  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4.5 Entire Agreement.** This Agreement and the agreements expressly contemplated hereby, including the exhibits and schedules referred to herein, contain the entire understanding of the Parties hereto with respect to the subject matter hereof and thereof. There are no representations, promises, warranties, covenants or undertakings other than those expressly set forth or provided for in this Agreement or in the agreements expressly contemplated hereby. This Agreement and the agreements expressly contemplated hereby supersede all prior agreements, understandings, negotiations and discussions between the Parties with respect to the transactions contemplated by this Agreement.

**4.6 Validity of Provisions.** If any part of this Agreement is declared by any court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this agreement, which shall continue in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, if in the intent of the Parties if they would have executed the remaining portions of this Agreement without including such part or portion which may for any reason may be declared invalid.

**4.7 Continuing Effect of Settlement Agreement and Mutual Release.** The Parties hereby agree that the terms of the Settlement Agreement and Mutual Release

dated May 30, 1994 ("Settlement Agreement"), and entered into by Swan Creek and El L Co, among others, shall remain in full force and effect; provided however, that any provision set forth in the Settlement Agreement that conflicts with the provisions of this Agreement shall be determined null and void.

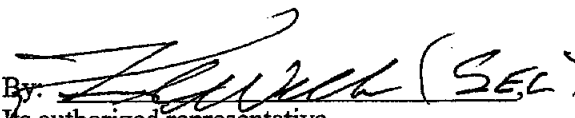
4.8 **Appointment to Swan Creek Board.** The Parties hereby agree that for a period of three (3) years from the date hereof, Blaine Thornock shall be appointed to the Swan Creek Board of Directors, for the specific purpose of assisting in and facilitating the transactions and transfer contemplated in this agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date hereof.

SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION

By:   
Its authorized representative.

EL L CO TERRACE HOMEOWNERS ASSOCIATION

By:   
Its authorized representative.

SIGNATURE PAGE

MEMBERSHIP AGREEMENT BETWEEN  
SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION  
AND  
EL L CO TERRACE HOMEOWNERS ASSOCIATION  
INCLUDING  
WATER SYSTEM TRANSFER AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
2 day of June, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION BOARD MEMBER

By: Marsha Wells for EL L CO TERRACE HOMEOWNERS ASSOC.

STATE OF UTAH

COUNTY OF Salt Lake

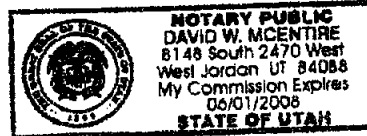
On this 2nd day of June AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

Marsha Wells

Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that she executed the same.

Witness my hand and official seal:

David W. McEntire



(Seal)

Notary Public

Residing at: West Jordan

Commission Expires: 06/01/2008

Block 1 lot 2

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
7 day of June 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: Trudy C Brown

STATE OF UTAH

COUNTY OF DAVES

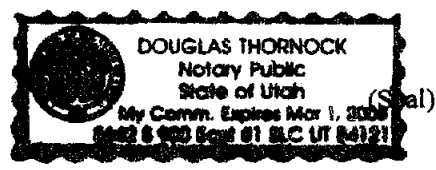
On this 7th day of JUNE AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

TRUDY C. BROWN

Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that SHE executed the same.

Witness my hand and official seal

[Signature]



Notary Public  
Residing at: SALT LAKE  
Commission Expires: 3-1-2008

Lot 3, Block 1

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
31<sup>st</sup> day of JUNE, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER.

By: Alan Brown

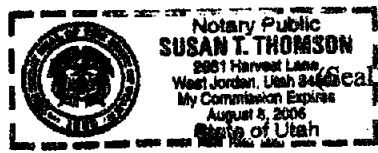
STATE OF UTAH

COUNTY OF SALT LAKE

On this 31<sup>st</sup> day of JUNE AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

ALAN BROWN  
Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that HE executed the same.

Witness my hand and official seal  
Susan L Thomson



Notary Public  
Residing at: SALT LAKE COUNTY, UTAH  
Commission Expires: 8/8/06

Lots 9 & 10  
Block 1

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
6 day of JUNE, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: Carlos B. Rando

STATE OF UTAH

COUNTY OF CACHE

On this 6 day of June AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

Carlos B. Rando  
Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that \_\_\_\_\_ executed the same.

Witness my hand and official seal

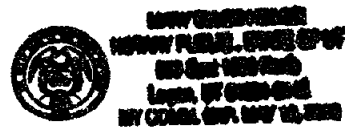
(Seal)

Mary Ellen Heiner

Notary Public

Residing at: 559 E 1000 N

Commission Expires: May 13, 2005



**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
3<sup>RD</sup> day of JUNE, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: KEVIN D. WELLS

STATE OF UTAH

COUNTY OF Salt Lake

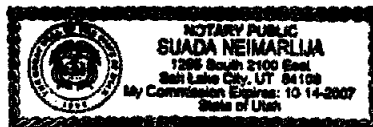
On this 3 day of June AD 2005, before me, the undersigned, a Notary  
Public, in and for said State, personally appeared

KEVIN D WELLS  
Known to me, and/or identified to me on the basis of satisfactory evidence, to be the  
person(s) whose name is/are subscribed to the within instrument and acknowledged to me  
that HE executed the same.

Witness my hand and official seal

Guada Neimarlia

Notary Public  
Residing at: Salt Lake  
Commission Expires: 10-14-2007



0341

SIGNATURE PAGE

MEMBERSHIP AGREEMENT BETWEEN  
SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION  
AND  
EL L CO TERRACE HOMEOWNERS ASSOCIATION  
INCLUDING  
WATER SYSTEM TRANSFER AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
31<sup>st</sup> day of May, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: Rex S. Spindlove

STATE OF UTAH

COUNTY OF Cache

On this 31<sup>st</sup> day of May AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

Rex S. Spindlove  
Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that Rex S. Spindlove executed the same.

Witness my hand and official seal

Priscilla A. Blal



Notary Public  
Residing at: 38 Shadow Mtn DR  
Commission Expires: Nov. 21, 2008



Block 2 Lot 4

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN  
SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION  
AND  
EL L CO TERRACE HOMEOWNERS ASSOCIATION  
INCLUDING  
WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
9TH day of JUNE, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION BOARD MEMBER

By: *Paul Henderson*

STATE OF UTAH

COUNTY OF DAVE

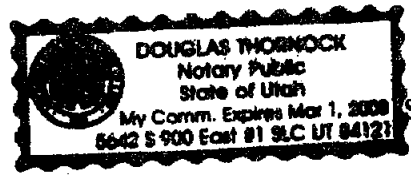
On this 9TH day of JUNE AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

DALE HENDRECKSON

Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that HE executed the same.

Witness my hand and official seal

*Douglas W. Thornock*



Notary Public  
Residing at: SALT LAKE  
Commission Expires: 3-1-2008

Block 2 Lot 4

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN  
SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION  
AND  
EL L CO TERRACE HOMEOWNERS ASSOCIATION  
INCLUDING  
WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
4TH day of JUNE-, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: Joila Hendrickson

STATE OF UTAH

COUNTY OF DAVES

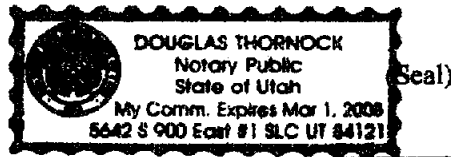
On this 4TH day of JUNE- AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

LOELA HENDRICKSON

Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that SHE executed the same.

Witness my hand and official seal

Douglas Thornock



Notary Public  
Residing at: SALT LAKE  
Commission Expires: 3-1-2008

~~Sublot 7~~  
Block Lot 7

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
2<sup>nd</sup> day of June, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

*Leslie Darrington*  
By: May A. Darrington

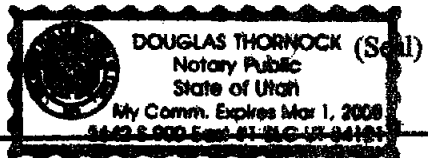
STATE OF UTAH  
COUNTY OF Davis

On this 4 day of June AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

Leslie Darrington & May A. Darrington  
Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that They executed the same.

Witness my hand and official seal

*Douglas Thornock*



Notary Public  
Residing at: SALT LAKE CITY  
Commission Expires: 3-1-2008

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
4<sup>th</sup> day of June, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION BOARD MEMBER

By: Blaine R. Thornock

STATE OF UTAH

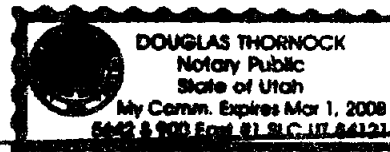
COUNTY OF Davis

On this 4<sup>th</sup> day of June AD 2005, before me, the undersigned, a Notary  
Public, in and for said State, personally appeared

Blaine R. Thornock  
Known to me, and/or identified to me on the basis of satisfactory evidence, to be the  
person(s) whose name is/are subscribed to the within instrument and acknowledged to me  
that He executed the same.

Witness my hand and official seal

Douglas Thornock



(Seal)

Notary Public  
Residing at: SALT LAKE  
Commission Expires: 3-1-2008

0346

B: 01:12 Lot 8

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN  
SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION  
AND  
EL L CO TERRACE HOMEOWNERS ASSOCIATION  
INCLUDING  
WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
4<sup>th</sup> day of June, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: Blaine R Thorne

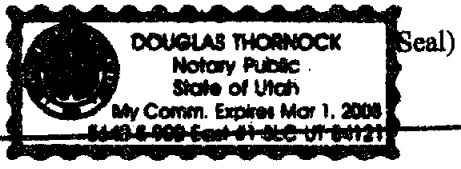
STATE OF UTAH  
COUNTY OF Davis

On this 4 day of June AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

Blaine R. Thorne  
Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that He executed the same.

Witness my hand and official seal

Douglas W. Thorne



Notary Public  
Residing at: SALT LAKE CITY  
Commission Expires: 3-1-2008

Block 2 Lot 9

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
4 day of JUNE, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: *Mr R. Milk*

STATE OF UTAH

COUNTY OF DAVIS

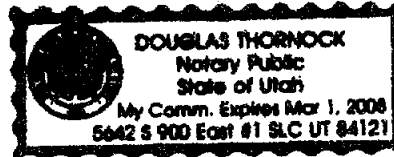
On this 4TH day of JUNE AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

NEWMAN R MELLER

Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that He executed the same.

Witness my hand and official seal

*Regina W. Johnson*



Seal)

Notary Public  
Residing at: SALT LAKE CITY,  
Commission Expires: 3-1-2008

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
4th day of June, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: Verlo Howell

STATE OF UTAH

COUNTY OF \_\_\_\_\_

On this 8th day of July AD 2005, before me, the undersigned, a Notary  
Public, in and for said State, personally appeared

Known to me, and/or identified to me on the basis of satisfactory evidence, to be the  
person(s) whose name is/are subscribed to the within instrument and acknowledged to me  
that \_\_\_\_\_ executed the same.

Witness my hand and official seal

(Seal)

Notary Public  
Residing at:  
Commission Expires:

*flock 2 lot 11 & 12*

0349

**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
29<sup>th</sup> day of June, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION BOARD MEMBER

By: Laura D. Osborne

STATE OF UTAH

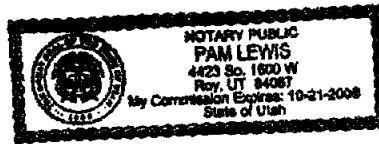
COUNTY OF Davis

On this 29 day of June AD 2005, before me, the undersigned, a Notary  
Public, in and for said State, personally appeared

Laura D. Osborne  
Known to me, and/or identified to me on the basis of satisfactory evidence, to be the  
person(s) whose name is/are subscribed to the within instrument and acknowledged to me  
that \_\_\_\_\_ executed the same.

Witness my hand and official seal

Pam Lewis



(Seal)

Notary Public

Residing at:

Commission Expires:



**SIGNATURE PAGE**

**MEMBERSHIP AGREEMENT BETWEEN**  
**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**  
**AND**  
**EL L CO TERRACE HOMEOWNERS ASSOCIATION**  
**INCLUDING**  
**WATER SYSTEM TRANSFER AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the  
30<sup>th</sup> day of December, 2005.

EL L CO TERRACE HOMEOWNERS ASSOCIATION LOT OWNER

By: Lanae D. Frodsham

STATE OF ~~UTAH~~ OREGON

COUNTY OF WASHINGTON

On this 30 day of DECEMBER AD 2005, before me, the undersigned, a Notary Public, in and for said State, personally appeared

LANAE D FRODSHAM

Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that \_\_\_\_\_ executed the same.

Witness my hand and official seal

Rachel Barron



Notary Public

Residing at: FIRST TECHNOLOGY CREDIT UNION BEAVERTON, OR

Commission Expires: SEPT 26 2009

0351



**SCHEDULE 1.1.4**

**EL L CO WATER SYSTEM ASSETS**

Appropriated water rights to .3556 second feet of water as evidenced by certificate numbers 23-3444 (A46524) and 23-3445 (A46594) of the Utah Water Engineer's Office;

A well located in Lot No. 1/BLK2 of the El L Co Terrace Subdivision, drilled to a depth of 510 feet wit 8" of steel casing, equipped with the current pump which is capable of pumping from said well a quantity of water exceeding 158 gpm;

Associated delivery lines servicing the lots of the El L Co Terrace Subdivision; and

A 25,000 gallon water storage tank located in Lot No. 1/BLK1 of the El L Co Terrace Subdivision.



**SCHEDULE 1.1.9**

**REMAINING OBLIGATIONS**

NONE



**SCHEDULE 1.1.12**

**WATER SYSTEM LEASE AGEEMENT**

## EXHIBIT "B"

WATER SYSTEM LEASE AGREEMENT

THIS AGREEMENT for the lease of a water system is entered into effective this 5 day of May, 1994, by and between the El L Co TERRACE HOMEOWNERS ASSOCIATION, a Utah non-profit corporation ("ELCTHA"), on the one hand, and the SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION, a Utah non-profit corporation ("SCVHA"), on the other hand, and is made pursuant to the terms of that certain Settlement Agreement and Mutual Release between the parties hereto and others, of even date herewith, of which this Agreement is but a part.

1. ELCTHA owns a water system in which it has capacity more than sufficient to serve the needs of the El L Co Terrace Subdivision, which water system consists of the following:

(a) Appropriated water rights to .3556 second feet of water as evidenced by certificate numbers 23-3444 (A46524) and 23-3445 (A46594) of the Utah Water Engineer's Office;

(b) A well located in Lot No. 1/BLK2 of the El L Co Terrace Subdivision, drilled to a depth of 510 feet with 8" steel casing, equipped with a pump of 30 h.p., three phase, 480 vac of Fairbanks Morse make, model 2006L10-201P which is capable of pumping from said well a quantity of water exceeding 158 gpm;

(c) Associated delivery lines servicing the lots of the El L Co Terrace Subdivision; and

(d) A 25,000 gallon water storage tank located in Lot No. 1/BLK1 of the El L Co Terrace Subdivision.

0358



Without warranting the same, it is believed that this water system has sufficient capacity to not only serve all present and future needs of all of the lots located in the El L Co Terrace Subdivision, but could in addition provide water for fire fighting purposes sufficient to cover much of the Swan Creek Village Subdivision and to provide culinary water for an unknown number of lots in the Swan Creek Village Subdivision.

2. In consideration of the following agreements, and subject to the terms and conditions set forth herein, the ELCTHA hereby agrees as follows:

(a) The ELCTHA for itself and its successors and assigns leases to the SCVHA the water system described in ¶1 above, including the appropriated water rights, but excluding the delivery lines from the tank to the lots in the El L Co Terrace Subdivision. Said system, less the exception noted, shall be called the "leased property."

(b) The ELCTHA assigns to the SCVHA all right, title and interest in all future appropriated and/or perfected rights to water diverted or allowed to be diverted from the above-mentioned well. Included within this assignment are all rights which are or may be granted to the ELCTHA by reason of the application now pending in the Utah Water Engineer's office, evidenced by No. 23-3747. Not included within this assignment are all water rights referenced in ¶1(a) above. Pursuant to the terms of ¶5(c) below, this assignment shall survive any termination of this lease.

(c) During the term of this lease, and subject to the conditions stated in ¶3 and ¶5(c) below, the SCVHA shall have the right to use the above-mentioned well as a point of diversion for water presently appropriated by the SCVHA, and water which may in the future be appropriated by the SCVHA.

(d) The ELCTHA agrees to grant to the SCVHA all easements in, across and under Lot No. 1/BLK1 and Lot No. 1/BLK2 of the El L Co Terrace Subdivision necessary to carry out the terms of this Agreement. Easements in, across any other lot within the El L Co Terrace Subdivision shall be granted only by written permission from the owner of the lot. The ELCTHA also agrees to execute and deliver to the SCVHA all documents deemed necessary by government or quasi-government agencies with jurisdiction over the subject matter of this Agreement to fully carry out its terms.

3. This lease is made upon the condition that the ELCTHA water system be used first to continue to provide all water needed by the ELCTHA and its members to serve the El L Co Terrace Subdivision, and all remaining capacity thereafter (the "excess capacity"), be used to provide short-term fire fighting capability to the lots in the Swan Creek Village Subdivision, and culinary usage for an unknown number of lots within the Swan Creek Village Subdivision. Should any applicable government regulations preclude such use of the excess capacity for part or all of the Swan Creek Village Subdivision culinary uses anticipated, then the system shall be used only by the SCVHA to the extent so allowed. In case of immediate need to protect any lives or structures or personal property located on or within the exterior boundaries of the Swan Creek Village Subdivision, including the El L Co Terrace Subdivision, against fire damage, the entire combined capacity of the water systems, of both the El L Co Terrace and Swan Creek Village Subdivisions, and not just the excess capacity of either system, may be so used.

4. The term of this lease shall commence on the date hereof and shall continue for a term of ninety-nine (99) years. On the failure of the SCVHA to give the ELCTHA written notice ninety (90) days in advance of the expiration of the term of this lease of a desire to cancel

this lease, this lease shall continue in full force and effect for ninety-nine (99) years from and after the date of its expiration, and both the SCVHA and the ELCTHA shall be accordingly bound.

5. Upon termination of this lease for any reason, the SCVHA agrees:

(a) to deliver up the leased property to the ELCTHA in as good order and condition as when the leased property was first leased to the SCVHA, reasonable use and wear excepted;

(b) to disconnect from the leased system in a manner that does not damage that system;

(c) to designate and use a new point of diversion not on property of ELCTHA for all water assigned under the terms of this agreement, and any other water appropriated to the SCVHA but being diverted out of ELCTHA's well under the provisions of ¶2(c), and to comply with all applicable government requirements regarding the new point of diversion(s).

6. As consideration for the use of the leased property, the SCVHA hereby agrees to do all of the following:

(a) Properly operate and maintain all physical aspects of the leased portions of the water delivery system and to make such repairs thereto resulting from normal use and wear and tear or acts of nature, but not including any capital replacement so necessitated which individually costs more than \$500.00 to make, as may reasonably be necessary to maintain the current delivery capacity of the system. To help offset such expenses, the owner of each lot in the EL L Co Terrace Subdivision which is developed with a cabin

or other permanent residential dwelling served by the water system shall pay to the SCVHA an annual payment of \$150 in installments of \$50 per month, due on the 20th day of May, June and July of each year. This annual payment and the corresponding installments shall be augmented to keep pace with increases in the rate of inflation as measured by the consumer price index or any other appropriate index, subject, however, to the provisions that the amount of the annual payment charged to the members of the El L Co Terrace Subdivision shall not exceed the amount charged by the SCVHA to its members. The SCVHA shall also pay for any extraordinary maintenance, replacement of, or repairs to any portion of the leased portions of the water system necessitated by any neglect or intentional or otherwise wrongful conduct, including omissions, of the SCVHA, shall pay for all other damages suffered by the ELCTHA or its members resulting therefrom, and shall further defend the ELCTHA against and hold it harmless from all claims, however made, by any third parties resulting from said conduct. The provisions of the preceding sentence shall survive any termination of this agreement;

(b) The SCVHA agrees to establish, contribute to, account for, and maintain a reserve fund, for the sole purpose of funding replacement of machinery, equipment and other portions of the leased property resulting from normal and proper use thereof and capital improvements to the leased property, in an account with a depository institution acceptable to the ELCTHA which account shall be separate from any account containing any other funds of the parties. Total payments into this fund, exclusive of any interest earned thereon or receipts from any insurance coverage, shall equal \$1,000 per calendar year, including any partial year exceeding six months in duration, but this annual amount

shall be augmented to keep pace with increases in the rate of inflation as measured by the consumer price index or any other appropriate index. There shall be a proration of these annual reserve fund payments according to the number of lots in both the Swan Creek Village subdivision and in the El L Co Terrace Subdivision served by the water systems which have been developed with any cabin or other permanent dwelling for residential use. The owners of each lot so developed in the El L Co Terrace Subdivision will pay one fractional share (e.g., 1/11th, 1/15th, or 1/20th) of the total required annual payment into this reserve fund, and the remaining balance shall be paid by the SCVHA. Said payments shall be made no later than October 1st of each year. All withdrawals from this reserve fund shall require the approval of the ELCTHA and be signed by a member of its governing board, except as stated in paragraph 10 below. Upon termination of the lease for any reason, all amounts remaining in said reserve fund shall be paid to the ELCTHA or its successors; and

(c) If, at any time, the amount in the reserve fund account is inadequate to pay for machinery, equipment or other portions of the leased property which must be replaced as a result of normal and proper use thereof, the SCVHA agrees to lend to the reserve fund the amount necessary to make up the shortfall. The SCVHA's obligation to make up the shortfall is subject to its ability to do so out of funds not reasonably earmarked for other obligations. All amounts deposited into the reserve fund after the date of any loan made by the SCVHA pursuant to this paragraph shall be available for immediate withdrawal by the SCVHA to repay the loan.

(d) The SCVHA agrees to allow and cooperate with and refrain from protesting in any way any applications made by ELCTHA or its members or lot owners on Broadhollow Road or roads connecting to it between the north end of phase 1 of the Swan Creek subdivision and highway 89 to obtain sewer utility connections, for each lot so owned, connecting to the same system used by the SCVHA, which connections shall be at least of the same grade and quality as those provided to owners of lots in the Swan Creek Village Subdivision. All connection fees to accomplish this shall be paid to the sewer district as per whatever fee schedule the ELCTHA or others may negotiate with the sewer district, with no additional charge being assessed or levied by the SCVHA.

✓ (e) The ELCTHA has caused to be prepared and signed, at its expense, the necessary right of way documents and sewer easements in favor of the sewer district pertaining to sewer lines which the SCVHA was responsible for placing on property not now owned by the SCVHA. The SCVHA agrees to record the documents at its expense.

7. The ELCTHA and its members shall be responsible for maintaining and servicing its non-leased property within the El L Co Terrace Subdivision, including water lines and hydrants, except to the extent the same are damaged by conduct of the SCVHA.

✓ 8. At its request and expense, at any time, the ELCTHA shall be allowed to inspect any and all aspects of the water system and any portions of the SCVHA system connecting thereto and review and copy any and all records maintained by the SCVHA concerning the water system, the expenses of operating and maintaining it, and all information concerning the reserve fund described herein.

9. All authorizations, permitting, inspections and expenses incurred in merging the SCVHA's water system with that of the ELCTHA shall be the sole responsibility of the SCVHA, and shall not be paid for out of the reserve fund described above. Said merger work shall include a means of disconnecting the two systems both on a temporary and on a permanent basis. During and after this work, all applicable government regulations shall be complied with by the SCVHA. The connection system shall not be implemented without the prior approval of the ELCTHA, which shall not be unreasonably withheld.

10. The charges or obligations owed by the owners of lots in the El L Co Terrace Subdivision pursuant to the terms of this Agreement shall be billed to the ELCTHA, which shall in turn assess its members. The SCVHA shall have no power to directly assess the property contained within the El L Co Terrace Subdivision nor the owners thereof. If charges made by the SCVHA pursuant to this Agreement are not paid within 60 days after a detailed written invoice for the same has been presented to the ELCTHA, then the SCVHA may withdraw the amount of the charges from the reserve fund set up pursuant to paragraph 6.b. above without first having to obtain the approval of the ELCTHA.

11. Roadways within each of the respective subdivisions of the parties will continue to be serviced and maintained to the extent determined necessary by the current owner thereof, within the limit of funds so available for that purpose, but all members of each of the parties and their guests will have the right to use the roads owned by the other party in a reasonable manner so long as any posted regulations pertaining to the manner of use thereof are observed. The ELCTHA is hereby given permission, but not the duty, to maintain and improve any portion of the roads of the SCVHA which provide access to the El L Co subdivision. On a best reasonable

efforts basis, again within the limit of funds available to it, in its sole determination, for said purpose, the ELCTHA will endeavor to annually grade and maintain and gradually improve with gravel those portions of Cisco Run, Cisco Loop, and Cisco Circle which are above the point where Cisco Run has recently been maintained by the SCVHA, leading in the shortest and most direct manner to the west or upper side of the El L Co subdivision.

IN WITNESS WHEREOF, the parties hereto execute this document to evidence their agreement to the provisions hereof, effective as of the day and year first written above.

EL L CO TERRACE HOMEOWNERS' ASSOCIATION

*Albol*  
Lawana D. Osborne  
Warren Cook

By \_\_\_\_\_  
Its \_\_\_\_\_  
Dated \_\_\_\_\_

SWAN CREEK VILLAGE HOMEOWNERS' ASSOCIATION

By *Mark J. Ryan*  
Its *Channa McC*  
Dated *5-30-94*

(PK10) C:\WP51\DOCL\SWANCRD.WBL



efforts basis, again within the limit of funds available to it, in its sole determination, for said purpose, the ELCTHA will endeavor to annually grade and maintain and gradually improve with gravel those portions of Cisco Run, Cisco Loop, and Cisco Circle which are above the point where Cisco Run has recently been maintained by the SCVHA, leading in the shortest and most direct manner to the west or upper side of the El L Co subdivision.

IN WITNESS WHEREOF, the parties hereto execute this document to evidence their agreement to the provisions hereof, effective as of the day and year first written above.

EL L CO TERRACE HOMEOWNERS' ASSOCIATION

By Randy C. Rice  
Its President  
Dated 19 May 94

SWAN CREEK VILLAGE HOMEOWNERS' ASSOCIATION

By \_\_\_\_\_  
Its \_\_\_\_\_  
Dated \_\_\_\_\_



**SCHEDULE 3.3**

**CONSENTS AND APPROVALS**

1. There is a possibility that before this Agreement can be finally consummated, the approval of the majority of the members of Swan Creek may be required. The performance and consummation of this Agreement may be subject to this approval.
  
2. Subject to an Agreement between Swan Creek and the members of El L Co whereby they agree to be bound by the terms and conditions of the Declaration of Reservations, Restrictions and Covenants of Swan Creek Village or such other agreement as may be necessary to confer full rights, obligations and benefits upon the members of El L Co by Swan Creek.

**CORPORATE RESOLUTION**

Be it resolved on June 1, 2005 the Board Members of EL L CO Terrace Homeowners Association elected Blaine R. Thornock President and Kevin Wells Secretary.

Be it resolved that the EL L CO Terrace Board hereby authorizes and instructs the President and Secretary to sign the Membership Agreement between Swan Creek Village Homeowners Association and EL L CO Terrace Homeowners Association including Water Transfer Agreement.

Be it resolved that the President and Secretary be authorized and instructed to sign Special Warranty Deeds transferring lot 1 block 1 and lot 1 block 2 in EL L CO Terrace To Swan Creek Village Homeowners Association.

x Louanna Harrington Osborne  
x [Signature]  
x Blaine R. Thornock  
x Trudy C. Brown

STATE OF UTAH

COUNTY OF DAVIES

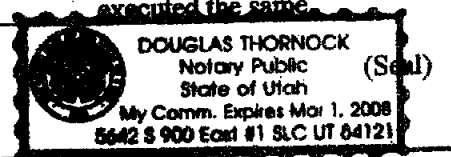
On this 1<sup>st</sup> day of JUNE AD 2005, before me the undersigned, a Notary Public, in and for said State, personally appeared

Known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that LOUANNA DARRENE FORD OSBORNE, KEVIN WELLS, TRUDY BROWN

BLAINE THORNOCK

Witness my hand and official seal

[Signature]



Notary Public  
Residing at: SALT LAKE CITY  
Commission Expires: 3-1-2008

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

The Swan Creek Homeowners Association owns certain real property located in Rich County, Utah, which is more specifically described as:

Blk 1 Lot 1, El L Co Terrace Subdivision  
Parcel No. 41-08-03-001

Blk 2 Lot 1, El L Co Terrace Subdivision  
Parcel No. 41-08-03-001

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement") was signed by the authorized representatives of Swan Creek and El L Co, as well as ratified by the requisite number of members of each association. The Membership Agreement is incorporated by reference.

The intent of this instrument is to formally reaffirm the merger and ratification of the plan of merger. We formally consent to becoming members of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0371

Exhibit B

WITNESS the hand of said grantor, this 14 day of May, 2008

**SWAN CREEK VILLAGE HOMEOWNERS  
ASSOCIATION**

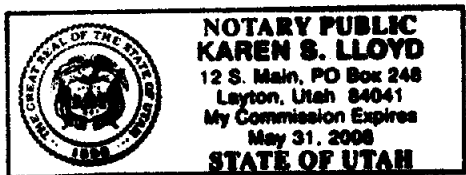


**Lorin Thompson**  
Its: President

STATE OF UTAH )

COUNTY OF Davis ) : ss.

On the 14 day of May, 2008, personally appeared before me **Lorin Thompson, President of the Swan Creek Village Homeowners Association**, the authorized signer of the within instrument, who duly acknowledged to me that he executed the same.



Karen S. Lloyd  
NOTARY PUBLIC

0372

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

I, Trudy C. Malan, fka Trudy C. Brown, own certain real property located in Rich County, Utah, which is more specifically described as:

Blk 1 Lot 2, El L Co Terrace Subdivision  
Parcel No. 41-08-03-002

On or about June 4, 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") called a meeting of the members of El L Co and explained that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. During this meeting, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and I approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement") which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note my consent of the merger and ratification of the plan of merger. I formally consent to becoming a member of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0373

WITNESS the hand of said grantor, this 4<sup>th</sup> day of December, 2008.

Trudy C Malan  
Trudy C. Malan (fka Trudy C. Brown)  
Trudy C Brown

STATE OF UTAH )  
 ) : ss.  
COUNTY OF Box Elder )

On the 4<sup>th</sup> day of December, 2008, personally appeared before me  
**Trudy C. Malan, fka Trudy C. Brown**, the signer of the within instrument, who duly  
acknowledged to me that she executed the same.



Melissa Jeppesen  
NOTARY PUBLIC



After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

We, Alan Brown and Colleen Brown, own certain real property located in Rich County, Utah, which is more specifically described as:

Blk 1 Lot 3, El L Co Terrace Subdivision  
Parcel No. 41-08-03-003

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. During this meeting, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and we approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement"), which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note my consent of the merger and ratification of the plan of merger. We formally consent to becoming members of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

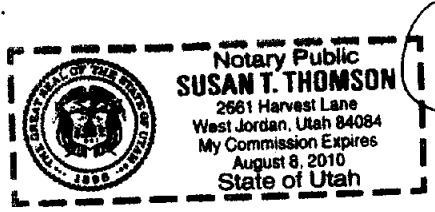
0375

WITNESS the hand of said grantor, this 4 day of NOVEMBER, 2008

Alan Brown  
Alan Brown

STATE OF UTAH )  
 ) : ss.  
COUNTY OF SALT LAKE )

On the 4<sup>th</sup> day of NOVEMBER, 2008, personally appeared before me **Alan Brown**, the signer of the within instrument, who duly acknowledged to me that he executed the same.



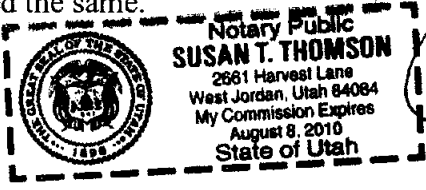
Susan T. Thomson  
NOTARY PUBLIC

WITNESS the hand of said grantor, this 4<sup>th</sup> day of NOVEMBER, 2008

Colleen Brown  
Colleen Brown

STATE OF UTAH )  
 ) : ss.  
COUNTY OF SALT LAKE )

On the 4<sup>th</sup> day of NOVEMBER, 2008, personally appeared before me **Colleen Brown**, the signer of the within instrument, who duly acknowledged to me that he executed the same.



Susan T. Thomson  
NOTARY PUBLIC

0376

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

We, Joel A. Lewis and Cindi I. Lewis, own certain real property located in Rich County, Utah, which is more specifically described as:

Blk 1 Lot 4, El L Co Terrace Subdivision  
Parcel No. 41-08-03-004

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger to El L Co's members and an agreement outlining the merger was executed by representatives of both Swan Creek and El L Co and ratified by most of El L Co's members. The *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement") is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note my consent of the merger and ratification of the plan of merger. We formally consent to becoming members of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

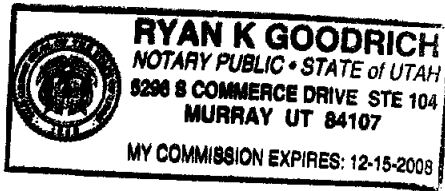
0377

WITNESS the hand of said grantor, this 30<sup>th</sup> day of May, 2008

Joel A. Lewis  
Joel A. Lewis

STATE OF UTAH )  
COUNTY OF Rich ) : ss.

On the 30 day of may, 2008, personally appeared before me **Joel A. Lewis**, the signer of the within instrument, who duly acknowledged to me that he executed the same.



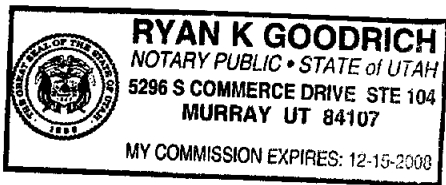
Ryan K Goodrich  
NOTARY PUBLIC

WITNESS the hand of said grantor, this 30<sup>th</sup> day of may, 2008

Cindi I Lewis  
Cindi I. Lewis

STATE OF UTAH )  
COUNTY OF Rich ) : ss.

On the 30 day of may, 2008, personally appeared before me **Cindi I. Lewis**, the signer of the within instrument, who duly acknowledged to me that he executed the same.



Ryan K Goodrich  
NOTARY PUBLIC

0378

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

I, Carlos B. Roundy, trustee of the Carlos B. Roundy Living Trust, established by agreement dated January 19, 1999, (the "Trust"), represent that the Trust owns certain real property located in Rich County, Utah, which is more specifically described as:

Blk 1 Lots 9 and 10, El L Co Terrace Subdivision  
Parcel Nos. 41-08-03-009, 41-08-03-010

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and I, on behalf of the Trust, approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement"), which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

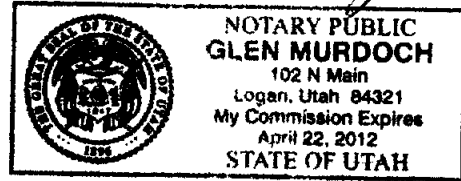
The intent of this instrument is to formally note my consent of the merger and ratification of the plan of merger. I formally consent to becoming a member of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0379

WITNESS the hand of said grantor, this 10 day of Nov., 2008

Carlos B. Roundy  
Carlos B. Roundy, Trustee

STATE OF UTAH )  
 )  
COUNTY OF CACHE ) : SS.



On the 10 day of NOVEMBER, 2008, personally appeared before me **Carlos B. Roundy**, trustee of the CARLOS B. ROUNDY LIVING TRUST the authorized signer of the within instrument, who duly acknowledged to me that she executed the same.

Glen Murdoch  
NOTARY PUBLIC

0380

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

We, Kevin D. Wells and Marsha O. Wells, own certain real property located in Rich County, Utah, which is more specifically described as:

Blk 1 Lot 11, El L Co Terrace Subdivision  
Parcel No. 41-08-03-011

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. During this meeting, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and we approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement") and incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note our consent of the merger and ratification of the plan of merger. We formally consent to becoming members of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

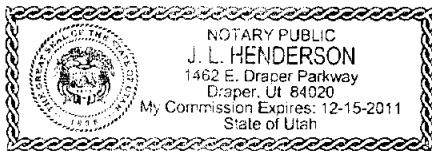
0381

WITNESS the hand of said grantor, this 30 day of May, 2008

[Signature]  
Kevin D. Wells

STATE OF UTAH )  
 ) : SS.  
COUNTY OF SALT LAKE )

On the 30 day of May, 2008, personally appeared before me **Kevin D. Wells**, the signer of the within instrument, who duly acknowledged to me that he executed the same.



[Signature]  
NOTARY PUBLIC

WITNESS the hand of said grantor, this 30 day of May, 2008

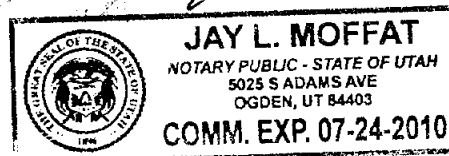
[Signature]  
Marsha O. Wells

STATE OF UTAH )  
 ) : SS.  
COUNTY OF SALT LAKE )

On the 30 day of MAY, 2008, personally appeared before me **Marsha O. Wells**, the signer of the within instrument, who duly acknowledged to me that she executed the same.

[Signature]  
NOTARY PUBLIC

0382





After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

I, Rex S. Spendlove, member of the Spendlove Enterprises, LLC, (the "Company"), represent that the Company owns certain real property located in Rich County, Utah, which is more specifically described as:

Blk 2 Lot 2, El L Co Terrace Subdivision  
Parcel No. 41-08-02-002

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and I, on behalf of the Company, approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement") which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note my consent of the merger and ratification of the plan of merger. I formally consent to becoming a member of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0383

WITNESS the hand of said grantor, this 21 day of May, 2008

**SPENDLOVE ENTERPRISES, LLC**

Rex S Spendlove

Rex S. Spendlove, Member

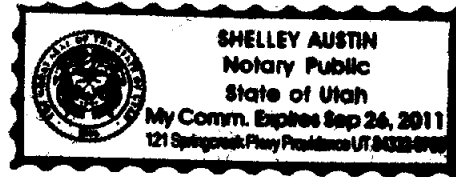
STATE OF UTAH )

: ss.

COUNTY OF Cache )

On the 21 day of May, 2008, personally appeared before me **Rex S. Spendlove**, member of Spendlove Enterprises, LLC, the authorized signer of the within instrument, who duly acknowledged to me that he executed the same.

Shelley Austin  
NOTARY PUBLIC



0384

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

I, Anthony S. Escobar, member of Esco Midway, LLC, (the "Company"), represent that the Company owns certain real property located in Rich County, Utah, which is more specifically described as:

Blk 2 Lots 3 and 4, El L Co Terrace Subdivision  
Parcel Nos. 41-08-02-003, 41-08-02-004

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and my predecessors, Dale and Loila Hendrickson, approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement") which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes. Moreover, I have since purchased the property.

The intent of this instrument is to formally note my consent of the merger and ratification of the plan of merger. I formally consent to becoming a member of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0385

WITNESS the hand of said grantor, this 21 day of MAY, 2008

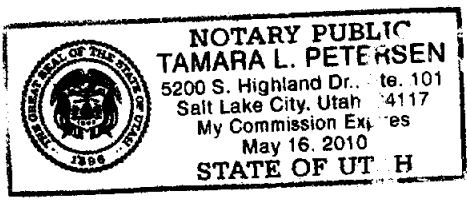
ESCO MIDWAY, LLC

[Signature]  
Anthony S. Escobar, Member

STATE OF UTAH )  
 )  
COUNTY OF Salt Lake ) : ss.

On the 21 day of May, 2008, personally appeared before me **Anthony S. Escobar**, member of ESCO Midway, LLC, the authorized signer of the within instrument, who duly acknowledged to me that he executed the same.

[Signature]  
NOTARY PUBLIC



0386

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

We, Tim Frodsham and LeNae Frodsham, own certain real property located in Rich County, Utah, which is more specifically described as:

Blk 2 Lots 5 and 6, El L Co Terrace Subdivision  
Parcel Nos. 41-08-02-005, 41-08-02-006

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. During this meeting, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and we approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement"), which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note our consent of the merger and ratification of the plan of merger. We formally consent to becoming members of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0387



After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

We, G. Leslie Darrington, Loila D. Hendrickson and A. James Larson, trustees of the *Declaration of Trust Made by G. Leslie Darrington*, established by agreement dated November 24, 1987, ("Trust #1") and May S. Darrington, Loila D. Hendrickson and A. James Larson, and trustees of the *Declaration of Trust Made by May S. Darrington*, established by agreement dated November 24, 1987 ("Trust #2") (collectively referred to as the "Trusts"), represent that the Trusts co-own certain real property located in Rich County, Utah, which is more specifically described as:

Blk 2 Lot 7, El L Co Terrace Subdivision  
Parcel Nos. 41-08-02-007

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and Leslie Darrington and May Darrington, on behalf of the Trusts, approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement") which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note our consent of the merger and ratification of the plan of merger. We previously consented to becoming members of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0389

DATED this 4th day of November, 2008.

Declaration of trust made by  
G. Leslie Darrington TRUST #1

Loila D. Hendrickson  
By: Loila D. Hendrickson  
Its: Trustee

STATE OF UTAH )  
 )  
 ) : ss.  
COUNTY OF Box Elder )

On the 4th day of November, 2008, personally appeared before me  
Loila D. Hendrickson, Trustee of the Declaration of trust made  
by G. Leslie Darrington Trust  
(Trust #1), the authorized signer of the within instrument, who duly acknowledged to me that  
he/she executed the same.

Melissa B. Jeppesen  
NOTARY PUBLIC



0390



DATED this 4<sup>th</sup> day of November, 2008.

Declaration of trust made by

May S. Darrington TRUST #2

Loila D. Hendrickson

By: Loila D. Hendrickson

Its: Trustee

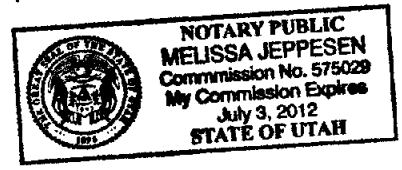
STATE OF UTAH )

: ss.

COUNTY OF Box Elder )

On the 4<sup>th</sup> day of November, 2008, personally appeared before me Loila D. Hendrickson, Trustee of the Declaration of trust made by May S. Darrington Trust (Trust #2), the authorized signer of the within instrument, who duly acknowledged to me that he/she executed the same.

Melissa Jeppesen  
NOTARY PUBLIC



0391

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

I, Blaine R. Thornock, trustee of the Thornock Family Trust established by agreement dated July 6, 1990 (the "Trust"), represent that the Trust owns certain real property located in Rich County, Utah, which is more specifically described as:

Blk 2 Lot 8, El L Co Terrace Subdivision  
Parcel No. 41-08-02-008

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and I, on behalf of the Trust, approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement") which is incorporated by reference. Since that time, the members of El L C and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note my consent of the merger and ratification of the plan of merger. I formally consent to becoming a member of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0392

WITNESS the hand of said grantor, this 21 day of May, 2008

Blaine R. Thornock

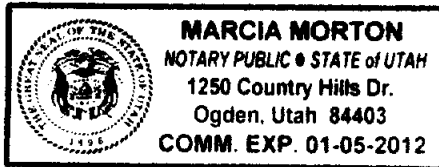
Blaine R. Thornock, Trustee

STATE OF UTAH )

: ss.

COUNTY OF WEBER )

On the 21st day of May, 2008, personally appeared before me **Blaine R. Thornock**, trustee of the Thornock Family Trust the authorized signer of the within instrument, who duly acknowledged to me that she executed the same.



Marcia Morton  
NOTARY PUBLIC

0393

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

I, Newman R. Miller, trustee of the El L Co Terrace Homeowners Association established by agreement dated June 4, 2005 ("Trust"), represent that the Trust owns certain real property located in Rich County, Utah, which is more specifically described as:

Blk 2 Lot 9, El L Co Terrace Subdivision  
Parcel No. 41-08-02-009

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and I, on behalf of the Trust, approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement"), which is incorporated by reference. Since that time, the members of El L C and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note my consent of the merger and ratification of the plan of merger. I formally consent to becoming a member of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0394

WITNESS the hand of said grantor, this 16th day of May, 2008

Newman R. Miller

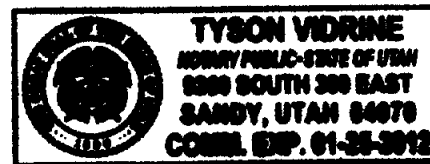
Newman R. Miller, Trustee

STATE OF UTAH )  
 )  
 ) : ss.  
COUNTY OF Salt Lake )

On the 16th day of May, 2008, personally appeared before me **Newman R. Miller**, trustee of the El L Co Terrace Homeowners Association the authorized signer of the within instrument, who duly acknowledged to me that she executed the same.

Tyson Vidrine

NOTARY PUBLIC



0395

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

We, Verlo A. Howell, trustee of the *Verlo A. Howell Living Trust*, and Kathleen C. Howell, trustee of the *Kathleen C. Howell Living Trust*, both established by agreement dated February 9, 2006 (collectively the "Trust"), represent that the Trust owns certain real property located in Rich County, Utah, which is more specifically described as:

Blk 2 Lots 11 and 12, El L Co Terrace Subdivision  
Parcel Nos. 41-08-02-011, 41-08-02-012

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and We, on behalf of the Trust, approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement"), which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes.

The intent of this instrument is to formally note our consent of the merger and ratification of the plan of merger. We formally consent to becoming a member of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

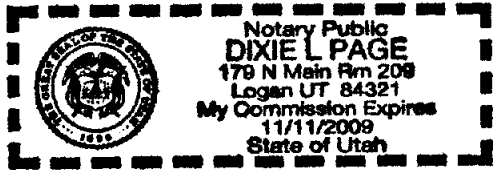
0396

WITNESS the hand of said grantor, this 23<sup>rd</sup> day of May, 2008

Verlo A. Howell, Trustee  
Verlo A. Howell, Trustee

STATE OF UTAH )  
 ) : ss.  
COUNTY OF Cache )

On the 23 day of May, 2008, personally appeared before me Verlo A. Howell, trustee of the Verlo A. Howell Trust the authorized signer of the within instrument, who duly acknowledged to me that he executed the same.



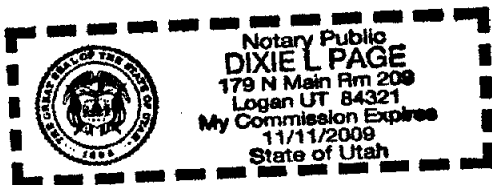
Dixie L. Page  
NOTARY PUBLIC

WITNESS the hand of said grantor, this 23 day of May, 2008

Kathleen C. Howell, Trustee  
Kathleen C. Howell, Trustee

STATE OF UTAH )  
 ) : ss.  
COUNTY OF Cache )

On the 23 day of May, 2008, personally appeared before me Kathleen C. Howell, trustee of the Kathleen C. Howell Trust the authorized signer of the within instrument, who duly acknowledged to me that she executed the same.



Dixie L. Page  
NOTARY PUBLIC

0397

After Recording Return To:  
Debra Griffiths Handley  
Dart, Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

## ***MEMBER CONSENT & RATIFICATION***

### ***Merger of Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association***

We, Paul Pearson and Natalie Pearson own certain real property located in Rich County, Utah, which is more specifically described as:

Blk 2 Lot 10, El L Co Terrace Subdivision  
Parcel No. 41-08-02-010

In the late spring of 2005, the Board of Directors of the El L Co Terrace Homeowners Association ("El L Co") represented that after much negotiation and consideration, it was in the best interests of the members of El L Co to join the Swan Creek Village Homeowners Association ("Swan Creek") and combine the two separate water systems that serviced each association. At this time, the El L Co Board of Directors presented the plan of merger for El L Co and Swan Creek and our predecessor, LaWana Osborne, approved the merger as outlined by signing that certain *Membership Agreement Between Swan Creek Village Homeowners Association and El L Co Terrace Homeowners Association including Water System Transfer Agreement* ("Membership Agreement"), which is incorporated by reference. Since that time, the members of El L Co and Swan Creek voted to further ratify this merger and approved the merger with the requisite number of votes. Moreover, we have since purchased the property.

The intent of this instrument is to formally note our consent of the merger and ratification of the plan of merger. We formally consent to becoming members of Swan Creek and agree to abide, be governed by and enjoy the rights afforded by the *Amended and Restated Declaration of Covenants, Rules and Restrictions for Swan Creek Village* (the "Swan Creek Village Declaration"), as amended. This Member Consent and Ratification constitutes covenants appurtenant to and running with the land, shall bind every person having a fee, leasehold or other interest in any portion of the above-referenced real property, and is intended to inure to the benefit of the Swan Creek, and all parties who hereafter acquire any interest in this property shall be subject to the terms of the Swan Creek Village Declaration, Bylaws, and all other related governing documents of Swan Creek.

0398

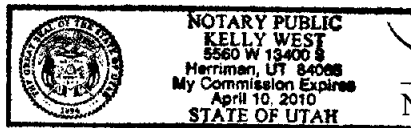


WITNESS the hand of said grantor, this 13 day of May, 2008

[Signature]  
Paul Pearson

STATE OF UTAH )  
COUNTY OF Salt Lake ) : ss.

On the 13 day of May, 2008, personally appeared before me **Paul Pearson**, the signer of the within instrument, who duly acknowledged to me that he executed the same.



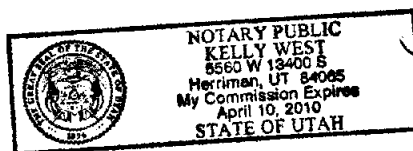
[Signature]  
NOTARY PUBLIC

WITNESS the hand of said grantor, this 13 day of May, 2008

[Signature]  
Natalie Pearson

STATE OF UTAH )  
COUNTY OF Salt Lake ) : ss.

On the 13 day of May, 2008, personally appeared before me **Natalie Pearson**, the signer of the within instrument, who duly acknowledged to me that she executed the same.



[Signature]  
NOTARY PUBLIC

0399

EXHIBIT C

**LEGAL DESCRIPTION OF ANNEXED PROPERTIES:**

Beginning at a point that is South 89° 41'04" East 1248.29 feet from the West ¼ corner of Section 8, T. 14N, R. 5E, S.L.B. & M.; thence North 00° 24'10" East 1213.40 feet; thence North 89° 35'50" West 363.000 feet; thence South 00° 24'10" West 1194.58 feet; thence South 06° 21'26" West 1554.693 feet; thence South 83° 38'34" East 363.000 feet; thence North 06° 21'26" East 1573.632 feet to the point of beginning.

**PARCEL NUMBERS OF ANNEXED PROPERTIES:**

El L Co Terrace Subdivision Block 1:

|        |                         |
|--------|-------------------------|
| Lot 1  | Parcel No. 41-08-03-001 |
| Lot 2  | Parcel No. 41-08-03-002 |
| Lot 3  | Parcel No. 41-08-03-003 |
| Lot 4  | Parcel No. 41-08-03-004 |
| Lot 5  | Parcel No. 41-08-03-005 |
| Lot 6  | Parcel No. 41-08-03-006 |
| Lot 7  | Parcel No. 41-08-03-007 |
| Lot 8  | Parcel No. 41-08-03-008 |
| Lot 9  | Parcel No. 41-08-03-009 |
| Lot 10 | Parcel No. 41-08-03-010 |
| Lot 11 | Parcel No. 41-08-03-011 |

El L Co Terrace Subdivision Block 2:

|        |                         |
|--------|-------------------------|
| Lot 1  | Parcel No. 41-08-02-001 |
| Lot 2  | Parcel No. 41-08-02-002 |
| Lot 3  | Parcel No. 41-08-02-003 |
| Lot 4  | Parcel No. 41-08-02-004 |
| Lot 5  | Parcel No. 41-08-02-005 |
| Lot 6  | Parcel No. 41-08-02-006 |
| Lot 7  | Parcel No. 41-08-02-007 |
| Lot 8  | Parcel No. 41-08-02-008 |
| Lot 9  | Parcel No. 41-08-02-009 |
| Lot 10 | Parcel No. 41-08-02-010 |
| Lot 11 | Parcel No. 41-08-02-011 |
| Lot 12 | Parcel No. 41-08-02-012 |

**LEGAL DESCRIPTION OF PROPERTY GOVERNED BY THE DECLARATION PRIOR TO THIS ANNEXATION:**

Swan Creek Village Subdivision Plat 1 and Phase II