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Mary Ann Trussell, Summit County Utah Recorder

09/19/2013 02:43:34 PM Fee \$77.00

By MORRIS SPERRY

Electronically Recorded

When Recorded Return To:

John D Morris
Brandon G Myers
MORRIS SPERRY
7070 S. Union Park Center
Suite 220
Midvale, UT 84047

**THIRD AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF
TOLL CREEK VILLAGE OFFICE CONDOMINIUM**

**FIRST AMENDMENT TO
THE BYLAWS OF TOLL CREEK OWNERS ASSOCIATION, INC.**

This Amendment is made by the Board of Directors of the Toll Creek Owners Association, Inc., a Utah non-profit corporation (the "Association").

RECITALS

A. The DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF TOLL CREEK VILLAGE OFFICE CONDOMINIUMS was recorded on April 28, 2005, in the Summit County Recorder's office as Entry No. 00734379 at Book 01695, Pages 01542-01602.

B. A substitute and complete replacement DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF TOLL CREEK VILLAGE OFFICE CONDOMINIUMS was recorded on September 2, 2005, in the Summit County Recorder's office as Entry No. 00749496 at Book 01730, Pages 01816-01877 (the "Declaration"). Bylaws are attached as an exhibit to the Declaration.

C. An AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF TOLL CREEK VILLAGE OFFICE CONDOMINIUMS was recorded on February 27, 2008, in the Summit County Recorder's office as Entry No. 00838525, beginning at Book 1916, Page 1360.

D. This document affects the real property located in Summit County, Utah, described with particularity on Exhibit A, attached hereto and incorporated herein by reference (the "Property").

E. The Owners of Units at the Property desire to amend the Declaration and Bylaws to include an attorney fee provision, to provide for flexibility in assigning parking in the Rules of the Association, to revise the audit requirement provisions, and to make other changes and amendments indicated herein.

F. As evidenced by this instrument, the Board of Directors has obtained the necessary approval of the owners to amend the Declaration and Bylaws.

NOW, THEREFORE, pursuant to the foregoing, the Board of Directors of the Association hereby makes and executes the following amendment to the Declaration and Bylaws, which shall be effective as of its recording date:

1. The following provision is added to Article XIII of the Declaration:

11. Legal Costs Associated with Disputes with Owners.

A. Owners Liable for Fees Incurred in Dispute.

If the Association utilizes legal counsel to enforce or assist in the enforcement of any term of the Declaration, Bylaws, or Rules, the Association may assess all reasonable attorney fees and costs associated with such enforcement or assistance to the Owner against whom enforcement is sought, regardless of whether a lawsuit is initiated or not. If the Association incurs any reasonable costs related to enforcement of the Declaration, Bylaws, or Rules other than or in addition to legal counsel, it may assess those costs to the Owner against whom enforcement is sought, regardless of whether a lawsuit is initiated or not. The Association shall have the same lien and collection rights for any assessment pursuant to this paragraph as provided for in this Declaration or as allowed as a matter of law for any other unpaid assessment. Any Owner and Purchaser shall be liable for any assessment under this paragraph just as they are liable for any other assessment under the Declaration or as a matter of law.

B. Costs. The term "costs" as used in this section shall include all costs including copying costs, deposition costs, expert witness fees, investigative costs, management costs, costs of identifying, measuring, or recording violations, lien and recording costs, service costs, and filing fees paid to courts. "Costs" is specifically defined in this Declaration to be broader and to include costs that are not included in "costs", as the term is used in the Utah Rules of Civil Procedure.

2. The following Sections are added to Article IV, Section 4 of the Declaration:

E. The right of the Association to assign some or all of the Common Area parking spaces to Units for use by the owners and guests of particular Units to which they are assigned. Any such assignment shall: (1) be in the Rules of the Association, (2) assign the number of assigned parking to each Unit based on the square footage of each Unit if any Units are assigned more parking than other Units, (3) assign a minimum of one parking space for each Unit, and (4) provide for some chance method of selecting or locating assigned parking spaces so that each Unit owner shall have an equal chance in the order of selection. The Board of Directors, in its discretion and in the Rules, may further define and detail any assignment allowed in this Section, including but not limited to: (a) the determination of the chance method of selecting assigned parking spaces, (b) whether owners are required to use assigned parking prior to using common area parking or not, (c) whether multiple assigned parking spaces to one Unit must be together or not, (d) whether signage is permitted or required for assigned parking and any standards and requirements for parking signage (which may be provided by the Association), (e) the method of assigning the number of parking spaces based on square footage – which does

not have to be strictly proportional and which shall be within the discretion of the Board of Directors, (f) any additional penalties to owners other than those already provided in the Declaration and Rules if they or their guests park in violation of the assigned parking, which penalties may include immediate towing of unauthorized vehicles, and (g) the location of assigned parking, which may be the parking nearest to the buildings.

F. The right of the Association to lease Common Area to one Owner pursuant to Article IV, Section 8 of this Declaration.

3. Article IV is amended to add section 8 as follows:

8. Lease of Common Area. Notwithstanding anything to the contrary herein, the Association may lease portions of the Common Area to an Owner by complying with the requirements of this Section 8. Any lease shall be in writing and shall set forth, at a minimum, (1) the area to be leased, (2) the amount to be paid by the Owner for the Lease, (3) the term of the Lease (which may not exceed two (2) years), (4) a statement of who will clean and be responsible for maintenance and replacement of fixtures (paint, carpet, lighting fixtures, doors, etc.) in the leased area, (5) a description of the lessee's right to change the appearance of or remodel the leased area and any obligation to return it to the style of the Common Area when the lease expires, and (6) a statement of any access or lack thereof that the non-leasing owners will have to the leased area. The lease shall not be effective until a lease that complies with the requirements above has been: (1) approved of by the Board, (2) signed by the Owner and by a representative of the Association, (3) provided to all of the Owners for review for a period of not less than 30 days (the "Owner 30 day review period"), and (4) no written objection(s) to the lease signed by Owners holding more than thirty three percent (33%) of the votes in the Association have been received within the Owner 30 day review period. If Owners holding more than thirty three percent (33%) of the votes object in writing to the lease within the Owner 30 day review period, the lease may not be entered into by the Association. If the minimum required objection is not received and if the lease complies with the requirements of this section, the Board may enter into the lease and all Owners and the Association shall be bound by the lease for its term. In addition to any remedies provided for in the lease, any failure to pay any amount due under the lease is hereby deemed and agreed by the parties to be a failure to pay assessments under this Declaration and under the law applicable to condominium associations and may be collected and secured as such, including by lien and foreclosure.

4. Article I, Section 15 of the Declaration is hereby amended to add the following sentence at the end of the section:

"Any parking assigned to a Unit pursuant to the Rules and Article IV, Section 4 of the Declaration shall be Limited Common Area appurtenant to that Unit and reserved for the exclusive use of that Unit so long as it is assigned in the Rules."

5. Article IV, Section 1 of the Declaration is amended to replace the second sentence in that section with:

“Open Parking shall also be provided subject to any limitations or assignments as allowed in Article IV.”

6. Article XII, Section 1(E) of the Declaration is amended to replace the second sentence in that section with:

“Each Owner of a Unit constructed on any phase of the Additional Land shall have the non-exclusive right to use all parking stalls located within the Common Areas subject to any limitations or assignments as allowed in Article IV.”

7. Article XII, Section 2(B) of the Declaration, “Use of Common Areas”, is amended to replace the second sentence:

“Each Owner of a Unit created from convertible space shall have the non-exclusive right to use all parking stalls located within the Common Areas of the Property and any Limited Common Areas that may be designated for exclusive use by such Owner.”

with:

“Each Owner of a Unit created from convertible space shall have the non-exclusive right to use all parking stalls located within the Common Areas of the Property, subject to any limitations or assignment as allowed in Article IV, and any Limited Common Areas that may be designated for exclusive use by such Owner.”

8. Article XI, Section 3 of the Declaration is amended to replace the second paragraph beginning “The Association shall make an audited . . .” with:

The Board of Directors may direct the Association to have a review or audit performed of the financial records of the Association at any time. The Association shall make available to the holder, insurer, or guarantor of any First Mortgage and any Owner, any review or audit. Any Owner may have an audit or review performed of the Association’s financial records by a qualified accountant, at the sole expense of the person requesting the audit, and the Association and Board of Directors shall permit and cooperate with any accountant performing the audit or review by providing access to and copies of any necessary documents, records, and certifications. The Board of Directors shall obtain an audit or review (whichever is requested by the Owners) if at the annual meeting of the Association, the Owners holding the majority of the votes, of those present in person or by proxy, vote in favor of the Association performing an audit or a review.

9. Article XIII, Section 1 of the Declaration is amended to replace the current section with:

1. Notices. Notwithstanding anything to the contrary therein, any notice to be given to an Owner or the Association under the provisions of the Declaration, Bylaws, or Rules shall be in writing and shall be delivered as follows:

(A) Notice to an Owner from the Association.

(1) Notice to an Owner shall be effective upon the satisfaction of any of the following delivery methods:

- (i) by a written notice delivered personally to the Owner, which shall be effective upon delivery,
- (ii) by a written notice placed in the first-class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Unit. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit,
- (iii) by written e-mail correspondence to an Owner: (1) that is sent to an e-mail address provided by the Owner for the purpose of Association communications, or (2) that is emailed to an e-mail address from which the Owner has communicated related to Association matters, and so long as no indication is received that the e-mail may not have been delivered. Any notice sent by e-mail shall be deemed delivered seventy-two (72) hours after it is sent. The Association shall comply with any notice from an Owner that an email address is no longer being used or that designates an alternative email address for use by the Association,
- (iv) by facsimile (whether to a machine or to an electronic receiving unit) to an Owner that is sent to a facsimile number provided by the Owner for the purpose of Association communications and so long as no indication is received that the facsimile may not have been delivered. Any notice sent by facsimile shall be deemed delivered seventy-two (72) hours after it is sent, or
- (v) by any other method that is fair and reasonable or otherwise provided for by law.

(2) In the case of co-Owners, notice to one of the co-Owners is effective as notice to all such co-Owners. The Association shall not be required to give more than one notice per Unit, whether electronic or not. In case any two co-Owners send conflicting notice demands, notice shall be proper if given to either co-Owner, by first-class mail to the Unit, or by any other means allowed in this Declaration.

(3) In case posting of a notice on the Unit is permitted, such posting is effective when posted on the front or primary access door to the Unit and any such posting may be removed by the Association the sooner of either (a) two (2) days after the event or action for which notice was given or (b) ten (10) days after the posting.

(B) Special Notice Prior to Association Entry into a Unit.

(1) In case of an emergency involving the potential loss of life, the Association's agent or representative may enter the Unit immediately and without any notice.

(2) In case of any emergency involving immediate and substantial damage to the Common Areas or to another Unit, before entering a Unit the Association shall:

- (i) knock on the door and attempt to obtain permission to enter from an Occupant or Owner in the Unit,
- (ii) if no one answers the knocking, loudly identify who is knocking and state that the Person identified is going to enter the Unit on behalf of the Association, then wait one minute, and
- (iii) where practicable under the circumstances, attempt to call the Owner or any Occupant prior to entry to inform them of the entry.

(3) If the Association enters a Unit for any purpose permitted in this Declaration other than those identified in the prior two paragraphs, before entering a Unit the Association shall:

- (i) give notice to the Owner that an entry is required at least two weeks in advance with such notice stating: (a) that the Association or its authorized Persons will enter the Unit, (b) the date and time of the entry, (c) the purpose of entering the Unit, (d) a statement that the Owner or Occupant can be present during the time the Association is in the Unit, (e) the full names of any Person who will be entering into the Unit, and the phone numbers and addresses of the Persons entering the Unit or of the company for whom the Persons entering the Unit are employed for the purpose of entering the Unit, (f) any other information the Association deems appropriate to include, and
- (ii) post the written notice described above on the front door to the Unit at least seven days prior to entry into the Unit.

(c) Notice to Association from an Owner.

(1) An Owner's notice to the Association shall be effective upon the satisfaction of any of the following delivery methods:

- (i) by a written notice delivered personally to the Manager, which shall be effective upon delivery;
- (ii) by a written notice placed in the first-class United States mail, postage prepaid, to the current registered business address of the Association. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.
- (iii) by written e-mail correspondence to the Association: (1) that is sent to an e-mail address provided by the Association in the prior twelve (12) months for the purpose of Association communications, or (2) that is emailed to an e-mail address from which the Manager or the President of the Association has communicated related to Association matters, and so long as no indication is received that the e-mail may not have been delivered or received. Any notice sent by e-mail shall be deemed delivered seventy-two (72) hours after it is sent.
- (iv) by facsimile (whether to a machine or to an electronic receiving unit) to the Association that is sent to a facsimile number provided by the

Association for the purpose of Association communications and so long as no indication is received that the facsimile may not have been delivered or received. Any notice sent by facsimile shall be deemed delivered seventy-two (72) hours after it is sent.

10. Article Five, Sections 1 and 2 of the Bylaws, are amended to replace the current sections with:

Section 1. Nomination. Nomination for election to the Board of Directors may be made by a nominating committee, if one is formed, or from the floor at the annual meeting. If formed, the nominating committee shall consist of a Chairperson, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The nominating committee shall contact Members to determine who is interested in serving on the Board of Directors and may make as many nominations for election to the Board of Directors as it shall in its discretion determine. Such nominations may be made from among Members or non-Members.

Section 2. Election.

2.1 Election to the Board of Directors may be by secret written ballot if the Members holding the majority of the votes, of those present in person or by proxy, vote in favor holding a secret ballot. If secret balloting is properly requested and the Board of Directors is not prepared to conduct elections by secret ballot, the Board of Directors may adjourn the meeting for a reasonable time, without any additional notice except verbal notice at the meeting of the time and date of the reconvened meeting, to prepare for secret balloting.

2.2 At each election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

11. In Article Eight, Section 8 of the Bylaws, the paragraph under the heading "Treasurer" is amended to replace:

"cause an annual audit or review of the Association books to be made by a public accountant at the completion of each fiscal year;"

with

"cause a review or audit of the Association's books and records as often as required by the Board of Directors and to cooperate with any review or audit properly requested by a Member pursuant to the Declaration;"

12. Article Eleven, Section 1.2 of the Bylaws is hereby deleted.

13. Effective Date. This Third Amendment to the Declaration and First Amendment to the Bylaws is effective when recorded.

14. Full Force and Effect. Except as expressly amended hereby, the Owners hereby affirm and adopt (only to the extent not previously properly adopted) each and every term of the Declaration and declare that it shall remain in full force and effect as originally recorded. In case of any conflict between the terms of this Amendment and the terms of the Declaration, the provisions of this Amendment shall control.

IN WITNESS THEREOF, the undersigned officer or delegate of the Association hereby certifies that the Board of Directors has obtained the affirmative written vote or consent of the Declarant and Owners of Units holding at least sixty-seven percent (67%) of the total votes in the Association cast in person or by proxy at a special meeting duly called for that purpose and consistent with the requirements of Article XIII, Section 3 of the Declaration, which is also sufficient to amend the bylaws as required in Article Fourteen of the Bylaws. The Association further certifies that any approval by Eligible Mortgagees has been obtained.

Toll Creek Village Office Owners Association, Inc.


(Signature)

Print Name: Ben Russell

Title: President

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

The foregoing instrument was acknowledged before me this 16 day of September, 2013, by Ben Russell who by me being duly sworn, did say that he or she is the President of the Toll Creek Village Office Owners Association.




Notary Public

Exhibit A – LEGAL DESCRIPTION OF PROPERTY

Commencing at the northeast corner of Section 11, Township 1 South, Range 3 East, Salt Lake Base & Meridian; thence along the north line of said Section S.89°47'18"W., a distance of 39.56 feet; thence leaving said Section line South, a distance of 126.28 feet to an existing centerline street monument on Homestead Road, as shown on the Jeremy Ranch Plat No. 3, on file and of record in the office of the Summit County Recorder; thence along the centerline of said Homestead Road N.72°04'40"W., a distance of 272.63 feet to an existing centerline street monument (basis of bearing being the centerline of Homestead Road between said monuments); thence leaving said centerline, S.56°29'31"W., a distance of 166.82 feet to the POINT OF BEGINNING; thence S.69°55'30"E., a distance of 64.61 feet; thence S.31°17'31"E., a distance of 54.92 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S.23°48'58"E., a radial distance of 222.67 feet; thence easterly along the arc, through a central angle of 19°31'35", a distance of 75.89 feet; thence S.04°17'20"E., a distance of 30.50 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S.04°17'20"E., a radial distance of 192.17 feet; thence westerly along the arc, through a central angle of 10°34'57", a distance of 35.49 feet; thence S.14°52'17"E., a distance of 12.00 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S.14°52'17"E., a radial distance of 180.17 feet; thence westerly along the arc, through a central angle of 06°33'57", a distance of 20.65 feet; thence S.30°27'02"E., a distance of 34.35 feet; thence N.56°50'31"E., a distance of 19.03 feet; thence S.33°09'29"E., a distance of 7.68 feet to a point of curve to the left having a radius of 45.09 feet and a central angle of 52°02'34"; thence southeasterly along the arc a distance of 40.95 feet; thence S.85°12'03"E., a distance of 2.29 feet; thence S.04°47'57"W., a distance of 32.16 feet; thence S.56°50'31"W., a distance of 71.65 feet; thence S.33°09'29"E., a distance of 104.55 feet; thence S.86°49'12"W., a distance of 155.23 feet to a point on the northeasterly right of way line of I-80, said point being the point of curve of a non tangent curve to the left, of which the radius point lies S.60°00'44"W., a radial distance of 326.48 feet; thence northwesterly along the arc, through a central angle of 26°42'24", a distance of 152.18 feet; thence leaving said right of way, N.20°04'30"E., a distance of 221.90 feet to the POINT OF BEGINNING.

Containing 52,708 square feet or 1.21 acres, more or less.

AND

Commencing at a point, said point being the northeast corner of Section 11, Township 1 South, Range 3 East, Salt Lake Base & Meridian; thence along the north line of said Section S.89°47'18"W., a distance of 39.56 feet; thence leaving said Section line South, a distance of 126.28 feet to an existing centerline street monument on Homestead Road, as shown on the Jeremy Ranch Plat No. 3, on file and of record in the office of the Summit County Recorder; thence along the centerline of said Homestead Road N.72°04'40"W., a distance of 272.63 feet to an existing centerline street monument (basis of bearing being the centerline of Homestead Road between said monuments); thence leaving said centerline, S.17°55'20"W., a distance of 35.00 feet to a point on the south right-of-way line of said Homestead Road, said point being the POINT OF BEGINNING; thence along said right of way, S.72°04'40"E., a distance of 272.63 feet to a point of curve to the left having a radius of 385.00 feet and a central angle of 25°28'10"; thence easterly along the arc of said curve and said right of way a distance of 171.14 feet; thence leaving said right of way, S.07°32'50"E., a distance of 17.08 feet to a point of curve to the right having a radius of 55.50 feet and a central angle of 32°25'38"; thence southerly along the arc a distance of 31.41 feet to a point of compound curve to the right having a radius of 50.00 feet and a central angle of 68°40'35"; thence southwesterly along the arc, a distance of 58.93 feet; thence N.86°26'38"W., a distance of 79.46 feet; thence S.04°47'57"W., a distance of 78.32 feet; thence S.01°12'03"E., a distance of 17.47 feet; thence N.85°12'02"W., a distance of 30.05 feet; thence S.04°47'58"W., a distance of 9.87 feet; thence S.28°05'55"E., a distance of 29.46 feet; thence S.57°22'52"W., a distance of 114.59 feet; thence S.86°49'12"W., a distance of 124.83 feet; thence N.33°09'29"W., a distance of 104.55 feet; thence N.56°50'31"E., a distance of 71.65 feet; thence N.04°47'57"E., a distance of 32.16 feet; thence N.85°12'03"W., a distance of 2.29 feet to a point of curve to the right having a radius of 45.09 feet and a central angle of 52°02'34"; thence northwesterly along the arc a distance of 40.95 feet; thence N.33°09'29"W., a distance of 7.68

feet; thence S.56°50'31"W., a distance of 19.93 feet; thence N.30°27'02"W., a distance of 34.35 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S.21°26'13"E., a radial distance of 180.17 feet; thence easterly along the arc, through a central angle of 06°33'57", a distance of 20.65 feet; thence N.14°52'17"W., a distance of 12.00 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S.14°52'17"E., a radial distance of 192.17 feet; thence easterly along the arc, through a central angle of 10°34'57", a distance of 35.49 feet; thence N.04°17'20"W., a distance of 30.50 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S.04°17'20"E., a radial distance of 222.67 feet; thence westerly along the arc, through a central angle of 19°31'35", a distance of 75.89 feet; thence N.31°17'31"W., a distance of 54.92 feet; thence N.69°55'30"W., a distance of 04.81 feet; thence N.20°04'30"E., a

distance of 78.83 feet to the said southerly right of way line of Homestead Road and point of curve of a non tangent curve to the right, of which the radius point lies S.00°47'14"E., a radial distance of 315.00 feet; thence easterly along the arc of said curve and said right of way, through a central angle of 18°42'34", a distance of 102.86 feet to the POINT OF BEGINNING.

Containing 103,229 square feet or 2.37 acres, more or less.

When Recorded Return To:

John D. Morris
Brandon G. Myers
MORRIS SPERRY
7070 S. Union Park Center
Suite 220
Midvale, UT 84047

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F. The right of the Association to lease Common Area to one Owner pursuant to Article IV, Section 8 of this Declaration.

3. Article IV is amended to add section 8 as follows:

8. Lease of Common Area. Notwithstanding anything to the contrary herein, the Association may lease portions of the Common Area to an Owner by complying with the requirements of this Section 8. Any lease shall be in writing and shall set forth, at a minimum, (1) the area to be leased, (2) the amount to be paid by the Owner for the Lease, (3) the term of the Lease (which may not exceed two (2) years), (4) a statement of who will clean and be responsible for maintenance and replacement of fixtures (paint, carpet, lighting fixtures, doors, etc.) in the leased area, (5) a description of the lessee's right to change the appearance of or remodel the leased area and any obligation to return it to the style of the Common Area when the lease expires, and (6) a statement of any access or lack thereof that the non-leasing owners will have to the leased area. The lease shall not be effective until a lease that complies with the requirements above has been: (1) approved of by the Board, (2) signed by the Owner and by a representative of the Association, (3) provided to all of the Owners for review for a period of not less than 30 days (the "Owner 30 day review period"), and (4) no written objection(s) to the lease signed by Owners holding more than thirty three percent (33%) of the votes in the Association have been received within the Owner 30 day review period. If Owners holding more than thirty three percent (33%) of the votes object in writing to the lease within the Owner 30 day review period, the lease may not be entered into by the Association. If the minimum required objection is not received and if the lease complies with the requirements of this section, the Board may enter into the lease and all Owners and the Association shall be bound by the lease for its term. In addition to any remedies provided for in the lease, any failure to pay any amount due under the lease is hereby deemed and agreed by the parties to be a failure to pay assessments under this Declaration and under the law applicable to condominium associations and may be collected and secured as such, including by lien and foreclosure.

4. Article I, Section 15 of the Declaration is hereby amended to add the following sentence at the end of the section:

"Any parking assigned to a Unit pursuant to the Rules and Article IV, Section 4 of the Declaration shall be Limited Common Area appurtenant to that Unit and reserved for the exclusive use of that Unit so long as it is assigned in the Rules."

5. Article IV, Section 1 of the Declaration is amended to replace the second sentence in that section with:

“Open Parking shall also be provided subject to any limitations or assignments as allowed in Article IV.”

6. Article XII, Section 1(E) of the Declaration is amended to replace the second sentence in that section with:

“Each Owner of a Unit constructed on any phase of the Additional Land shall have the non-exclusive right to use all parking stalls located within the Common Areas subject to any limitations or assignments as allowed in Article IV.”

7. Article XII, Section 2(B) of the Declaration, “Use of Common Areas”, is amended to replace the second sentence:

“Each Owner of a Unit created from convertible space shall have the non-exclusive right to use all parking stalls located within the Common Areas of the Property and any Limited Common Areas that may be designated for exclusive use by such Owner.”

with:

“Each Owner of a Unit created from convertible space shall have the non-exclusive right to use all parking stalls located within the Common Areas of the Property, subject to any limitations or assignment as allowed in Article IV, and any Limited Common Areas that may be designated for exclusive use by such Owner.”

8. Article XI, Section 3 of the Declaration is amended to replace the second paragraph beginning “The Association shall make an audited . . .” with:

The Board of Directors may direct the Association to have a review or audit performed of the financial records of the Association at any time. The Association shall make available to the holder, insurer, or guarantor of any First Mortgage and any Owner, any review or audit. Any Owner may have an audit or review performed of the Association’s financial records by a qualified accountant, at the sole expense of the person requesting the audit, and the Association and Board of Directors shall permit and cooperate with any accountant performing the audit or review by providing access to and copies of any necessary documents, records, and certifications. The Board of Directors shall obtain an audit or review (whichever is requested by the Owners) if at the annual meeting of the Association, the Owners holding the majority of the votes, of those present in person or by proxy, vote in favor of the Association performing an audit or a review.

9. Article XIII, Section 1 of the Declaration is amended to replace the current section with:

1. Notices. Notwithstanding anything to the contrary therein, any notice to be given to an Owner or the Association under the provisions of the Declaration, Bylaws, or Rules shall be in writing and shall be delivered as follows:

(A) Notice to an Owner from the Association.

(1) Notice to an Owner shall be effective upon the satisfaction of any of the following delivery methods:

- (i) by a written notice delivered personally to the Owner, which shall be effective upon delivery,**
- (ii) by a written notice placed in the first-class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Unit. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit,**
- (iii) by written e-mail correspondence to an Owner: (1) that is sent to an e-mail address provided by the Owner for the purpose of Association communications, or (2) that is emailed to an e-mail address from which the Owner has communicated related to Association matters, and so long as no indication is received that the e-mail may not have been delivered. Any notice sent by e-mail shall be deemed delivered seventy-two (72) hours after it is sent. The Association shall comply with any notice from an Owner that an email address is no longer being used or that designates an alternative email address for use by the Association,**
- (iv) by facsimile (whether to a machine or to an electronic receiving unit) to an Owner that is sent to a facsimile number provided by the Owner for the purpose of Association communications and so long as no indication is received that the facsimile may not have been delivered. Any notice sent by facsimile shall be deemed delivered seventy-two (72) hours after it is sent, or**
- (v) by any other method that is fair and reasonable or otherwise provided for by law.**

(2) In the case of co-Owners, notice to one of the co-Owners is effective as notice to all such co-Owners. The Association shall not be required to give more than one notice per Unit, whether electronic or not. In case any two co-Owners send conflicting notice demands, notice shall be proper if given to either co-Owner, by first-class mail to the Unit, or by any other means allowed in this Declaration.

(3) In case posting of a notice on the Unit is permitted, such posting is effective when posted on the front or primary access door to the Unit and any such posting may be removed by the Association the sooner of either (a) two (2) days after the event or action for which notice was given or (b) ten (10) days after the posting

(B) Special Notice Prior to Association Entry into a Unit.

(1) In case of an emergency involving the potential loss of life, the Association's agent or representative may enter the Unit immediately and without any notice.

(2) In case of any emergency involving immediate and substantial damage to the Common Areas or to another Unit, before entering a Unit the Association shall:

- (i) knock on the door and attempt to obtain permission to enter from an Occupant or Owner in the Unit,
- (ii) if no one answers the knocking, loudly identify who is knocking and state that the Person identified is going to enter the Unit on behalf of the Association, then wait one minute, and
- (iii) where practicable under the circumstances, attempt to call the Owner or any Occupant prior to entry to inform them of the entry.

(3) If the Association enters a Unit for any purpose permitted in this Declaration other than those identified in the prior two paragraphs, before entering a Unit the Association shall:

- (i) give notice to the Owner that an entry is required at least two weeks in advance with such notice stating: (a) that the Association or its authorized Persons will enter the Unit, (b) the date and time of the entry, (c) the purpose of entering the Unit, (d) a statement that the Owner or Occupant can be present during the time the Association is in the Unit, (e) the full names of any Person who will be entering into the Unit, and the phone numbers and addresses of the Persons entering the Unit or of the company for whom the Persons entering the Unit are employed for the purpose of entering the Unit, (f) any other information the Association deems appropriate to include, and
- (ii) post the written notice described above on the front door to the Unit at least seven days prior to entry into the Unit.

(c) Notice to Association from an Owner.

(1) An Owner's notice to the Association shall be effective upon the satisfaction of any of the following delivery methods:

- (i) by a written notice delivered personally to the Manager, which shall be effective upon delivery;
- (ii) by a written notice placed in the first-class United States mail, postage prepaid, to the current registered business address of the Association. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.
- (iii) by written e-mail correspondence to the Association: (1) that is sent to an e-mail address provided by the Association in the prior twelve (12) months for the purpose of Association communications, or (2) that is emailed to an e-mail address from which the Manager or the President of the Association has communicated related to Association matters, and so long as no indication is received that the e-mail may not have been delivered or received. Any notice sent by e-mail shall be deemed delivered seventy-two (72) hours after it is sent.
- (iv) by facsimile (whether to a machine or to an electronic receiving unit) to the Association that is sent to a facsimile number provided by the

Association for the purpose of Association communications and so long as no indication is received that the facsimile may not have been delivered or received. Any notice sent by facsimile shall be deemed delivered seventy-two (72) hours after it is sent.

10. Article Five, Sections 1 and 2 of the Bylaws, are amended to replace the current sections with:

Section 1. Nomination. Nomination for election to the Board of Directors may be made by a nominating committee, if one is formed, or from the floor at the annual meeting. If formed, the nominating committee shall consist of a Chairperson, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The nominating committee shall contact Members to determine who is interested in serving on the Board of Directors and may make as many nominations for election to the Board of Directors as it shall in its discretion determine. Such nominations may be made from among Members or non-Members.

Section 2. Election.

2.1 Election to the Board of Directors may be by secret written ballot if the Members holding the majority of the votes, of those present in person or by proxy, vote in favor holding a secret ballot. If secret balloting is properly requested and the Board of Directors is not prepared to conduct elections by secret ballot, the Board of Directors may adjourn the meeting for a reasonable time, without any additional notice except verbal notice at the meeting of the time and date of the reconvened meeting, to prepare for secret balloting.

2.2 At each election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

11. In Article Eight, Section 8 of the Bylaws, the paragraph under the heading "Treasurer" is amended to replace:

"cause an annual audit or review of the Association books to be made by a public accountant at the completion of each fiscal year;"

with

"cause a review or audit of the Association's books and records as often as required by the Board of Directors and to cooperate with any review or audit properly requested by a Member pursuant to the Declaration;"

12. Article Eleven, Section 1.2 of the Bylaws is hereby deleted.

13. Effective Date. This Third Amendment to the Declaration and First Amendment to the Bylaws is effective when recorded.

14. Full Force and Effect. Except as expressly amended hereby, the Owners hereby affirm and adopt (only to the extent not previously properly adopted) each and every term of the Declaration and declare that it shall remain in full force and effect as originally recorded. In case of any conflict between the terms of this Amendment and the terms of the Declaration, the provisions of this Amendment shall control.

IN WITNESS THEREOF, the undersigned officer or delegate of the Association hereby certifies that the Board of Directors has obtained the affirmative written vote or consent of the Declarant and Owners of Units holding at least sixty-seven percent (67%) of the total votes in the Association cast in person or by proxy at a special meeting duly called for that purpose and consistent with the requirements of Article XIII, Section 3 of the Declaration, which is also sufficient to amend the bylaws as required in Article Fourteen of the Bylaws. The Association further certifies that any approval by Eligible Mortgagees has been obtained.

Toll Creek Village Office Owners Association, Inc.


(Signature)

Print Name: Ben Russell

Title: President

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

The foregoing instrument was acknowledged before me this 16 day of September, 2013, by Ben Russell who by me being duly sworn, did say that he or she is the President of the Toll Creek Village Office Owners Association.




Notary Public

Exhibit A – LEGAL DESCRIPTION OF PROPERTY

Commencing at the northeast corner of Section 11, Township 1 South, Range 3 East, Salt Lake Base & Meridian; thence along the north line of said Section S.89°47'18"W., a distance of 39.56 feet; thence leaving said Section line South, a distance of 126.28 feet to an existing centerline street monument on Homestead Road, as shown on the Jeremy Ranch Plat No. 3, on file and of record in the office of the Summit County Recorder; thence along the centerline of said Homestead Road N.72°04'40"W., a distance of 272.63 feet to an existing centerline street monument (basis of bearing being the centerline of Homestead Road between said monuments); thence leaving said centerline, S.56°29'31"W., a distance of 166.82 feet to the POINT OF BEGINNING; thence S.69°55'30"E., a distance of 64.61 feet; thence S.31°17'31"E., a distance of 54.92 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S.23°48'58"E., a radial distance of 222.67 feet; thence easterly along the arc, through a central angle of 19°31'35", a distance of 75.89 feet; thence S.04°17'20"E., a distance of 30.50 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S.04°17'20"E., a radial distance of 192.17 feet; thence westerly along the arc, through a central angle of 10°34'57", a distance of 35.49 feet; thence S.14°52'17"E., a distance of 12.00 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S.14°52'17"E., a radial distance of 180.17 feet; thence westerly along the arc, through a central angle of 06°33'57", a distance of 20.65 feet; thence S.30°27'02"E., a distance of 34.35 feet; thence N.56°50'31"E., a distance of 19.03 feet; thence S.33°09'29"E., a distance of 7.68 feet to a point of curve to the left having a radius of 45.09 feet and a central angle of 52°02'34"; thence southeasterly along the arc a distance of 40.95 feet; thence S.85°12'03"E., a distance of 2.29 feet; thence S.04°47'57"W., a distance of 32.16 feet; thence S.56°50'31"W., a distance of 71.65 feet; thence S.33°09'29"E., a distance of 104.55 feet; thence S.86°49'12"W., a distance of 155.23 feet to a point on the northeasterly right of way line of I-80, said point being the point of curve of a non tangent curve to the left, of which the radius point lies S.60°00'44"W., a radial distance of 326.48 feet; thence northwesterly along the arc, through a central angle of 26°42'24", a distance of 152.18 feet; thence leaving said right of way, N.20°04'30"E., a distance of 221.90 feet to the POINT OF BEGINNING.

Containing 52,708 square feet or 1.21 acres, more or less.

AND

Commencing at a point, said point being the northeast corner of Section 11, Township 1 South, Range 3 East, Salt Lake Base & Meridian; thence along the north line of said Section S.89°47'18"W., a distance of 39.56 feet; thence leaving said Section line South, a distance of 126.28 feet to an existing centerline street monument on Homestead Road, as shown on the Jeremy Ranch Plat No. 3, on file and of record in the office of the Summit County Recorder; thence along the centerline of said Homestead Road N.72°04'40"W., a distance of 272.63 feet to an existing centerline street monument (basis of bearing being the centerline of Homestead Road between said monuments); thence leaving said centerline, S.17°55'20"W., a distance of 35.00 feet to a point on the south right-of-way line of said Homestead Road, said point being the POINT OF BEGINNING; thence along said right of way, S.72°04'40"E., a distance of 272.63 feet to a point of curve to the left having a radius of 385.00 feet and a central angle of 25°28'10"; thence easterly along the arc of said curve and said right of way a distance of 171.14 feet; thence leaving said right of way, S.07°32'50"E., a distance of 17.08 feet to a point of curve to the right having a radius of 55.50 feet and a central angle of 32°25'38"; thence southerly along the arc a distance of 31.41 feet to a point of compound curve to the right having a radius of 50.00 feet and a central angle of 68°40'35"; thence southwesterly along the arc, a distance of 58.93 feet; thence N.86°26'38"W., a distance of 79.46 feet; thence S.04°47'57"W., a distance of 78.32 feet; thence S.01°12'03"E., a distance of 17.47 feet; thence N.85°12'02"W., a distance of 30.05 feet; thence S.04°47'58"W., a distance of 9.87 feet; thence S.28°05'55"E., a distance of 29.46 feet; thence S.57°22'52"W., a distance of 114.59 feet; thence S.86°49'12"W., a distance of 124.83 feet; thence N.33°09'29"W., a distance of 104.55 feet; thence N.56°50'31"E., a distance of 71.65 feet; thence N.04°47'57"E., a distance of 32.16 feet; thence N.85°12'03"W., a distance of 2.29 feet to a point of curve to the right having a radius of 45.09 feet and a central angle of 52°02'34"; thence northwesterly along the arc a distance of 40.95 feet; thence N.33°09'29"W., a distance of 7.68

feet; thence S.56°50'31"W., a distance of 19.93 feet; thence N.30°27'02"W., a distance of 34.35 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S.21°26'13"E., a radial distance of 180.17 feet; thence easterly along the arc, through a central angle of 06°33'57", a distance of 20.65 feet; thence N.14°52'17"W., a distance of 12.00 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S.14°52'17"E., a radial distance of 192.17 feet; thence easterly along the arc, through a central angle of 10°34'57", a distance of 35.49 feet; thence N.04°17'20"W., a distance of 30.50 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S.04°17'20"E., a radial distance of 222.67 feet; thence westerly along the arc, through a central angle of 19°31'35", a distance of 75.89 feet; thence N.31°17'31"W., a distance of 54.92 feet; thence N.69°55'30"W., a distance of 04.81 feet; thence N.20°04'30"E., a

distance of 78.83 feet to the said southerly right of way line of Homestead Road and point of curve of a non tangent curve to the right, of which the radius point lies S.00°47'14"E., a radial distance of 315.00 feet; thence easterly along the arc of said curve and said right of way, through a central angle of 18°42'34", a distance of 102.86 feet to the POINT OF BEGINNING.

Containing 103,229 square feet or 2.37 acres, more or less.

- Parcel I.D. No. TCVC-10-2AM
- TCVC-20-2AM
- TCVC-30-2AM
- TCVC-40-2AM
- TCVC-50-2AM
- TCVC-60-2AM
- TCVC-110-2AM
- TCVC-120-2AM
- TCVC-130-2AM
- TCVC-140-2AM
- TCVC-150-2AM
- TCVC-151-2AM
- TCVC-160-2AM
- TCVC-161-2AM
- TCVC-210-2AM
- TCVC-220-2AM
- TCVC-230-2AM
- TCVC-240-2AM
- TCVC-A-2AM
- TCVC-B-2AM
- TCVC-C-2AM
- TCVC-D-2AM
- TCVC-E-2AM
- TCVC-F-2AM
- TCVC-G-2AM
- TCVC-25-2AM