

**SECOND AMENDMENT TO THE DECLARATION OF PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR INDEPENDENCE AVENUE**

THIS SECOND AMENDMENT TO THE DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR INDEPENDENCE AVENUE ("Second Amendment") is hereby adopted by the Independence Avenue Owners Association ("Association"), for and on behalf of its members, and made effective as of the date recorded in the Utah County Recorder's Office.

RECITALS:

(A) This Second Amendment affects and concerns the real property located in Utah County, Utah and more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference ("Property").

(B) A plat map depicting Plat "A" Independence Avenue was recorded on June 1, 2007, in the Utah County Recorder's Office as Entry No. 80970:2007.

(C) On June 1, 2007, the DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR INDEPENDENCE AVENUE was recorded in the Utah County Recorder's Office, as Entry No. 80973:2007 ("Enabling Declaration").

(D) A plat map depicting Plat "B" Independence Avenue was recorded on September 8, 2008, in the Utah County Recorder's Office as Entry No. 99288:2008.

(E) On September 8, 2008, the FIRST SUPPLEMENTAL DECLARATION TO DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR INDEPENDENCE AVENUE was recorded in the Utah County Recorder's Office, as Entry No. 99289:2008 ("First Supplemental").

(F) A plat map depicting Plat "C" Independence Avenue was recorded on June 23, 2010, in the Utah County Recorder's Office as Entry No. 52102:2010.

(G) On June 23, 2010, the SECOND SUPPLEMENTAL DECLARATION TO DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR INDEPENDENCE AVENUE was recorded in the Utah County Recorder's Office, as Entry No. 52103:2010 ("Second Supplemental").

(H) A plat map depicting Plat "D" Independence Avenue was recorded on April 30, 2013, in the Utah County Recorder's Office as Entry No. 41476:2013.

(I) On April 30, 2013, the THIRD SUPPLEMENTAL DECLARATION TO DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR INDEPENDENCE AVENUE was recorded in the Utah County Recorder's Office, as Entry No. 41477:2013 ("Third Supplemental").

(J) A plat map depicting Plat "E" Independence Avenue was recorded on April 30, 2013, in the Utah County Recorder's Office as Entry No. 41478:2013.

(K) On April 30, 2013, the FOURTH SUPPLEMENTAL DECLARATION TO DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR INDEPENDENCE AVENUE was recorded in the Utah County Recorder's Office, as Entry No. 41479:2013 ("Fourth Supplemental").

(L) On June 9, 2015, the AMENDMENT TO DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR INDEPENDENCE AVENUE was recorded in the Utah County Recorder's Office, as Entry No. 91902:2015 ("First Amendment").

(M) The period of Declarant control has ended.

(N) Pursuant to Article XIV, Section 14.02 of the Declaration, no less than 60% of the Owners of record provided their consent approving and consenting to the recording of this Second Amendment.

CERTIFICATION

By signing below, the Board hereby certifies that the above-described approvals were obtained, approving and consenting to the recording of this Second Amendment.

(O) These Recitals are made a part of this Second Amendment

NOW, THEREFORE, pursuant to the foregoing, the Board of the Association hereby makes and executes this Second Amendment, which shall be effective as of its recording date.

COVENANTS, CONDITIONS AND RESTRICTIONS

1. Recitals. The above Recitals are incorporated herein by reference and made a part hereof.
2. No Other Changes. Except as otherwise expressly provided in this Second Amendment, the Declaration, as amended, remains in full force and effect without modification.
3. Authorization. The individuals signing for the respective entities make the following representations: (i) he/she has read the Second Amendment, (ii) he/she has authority to act for the entity designated below, and (iii) he/she shall execute the Second Amendment acting in said capacity.

4. Conflicts. In the case of any conflict between the provisions of this Second Amendment and the provisions of the Declaration, this Second Amendment shall in all respects govern and control. In the case of any existing provisions that could be interpreted as prohibiting the modifications set forth in this Second Amendment, such provision is hereby modified in order to accomplish the purpose and intent of this Second Amendment.

AMENDMENTS

5. The definition of “Unit” in Article II is hereby deleted in its entirety and replaced with the following:

Unit shall mean an attached residential dwelling structure which is designed, constructed and intended for occupancy as a single-family residence on a Lot within the Development, together with all improvements located on the same Lot and used in conjunction with such residence, including anything located inside or outside the Unit (but designated and designed to serve only that Unit) such as garages, patios, decks, appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning equipment. Units will share a party wall with adjoining attached Units along their common Lot/Unit lines. Lot and Unit numbers are synonymous. Unless described above as part of the “Unit”, pipes, conduit, and other utility lines located outside the exterior boundaries of the residential dwelling are not considered part of the “Unit”, even if serving a single dwelling.

6. Article IV, Section 4.01 of the Declaration, is hereby deleted in its entirety and replaced with the following:

4.01 Maintenance and Repairs

(a) Lots. Except to the extent that the Association is responsible for such maintenance under Subsection (b) below, maintenance of the Lots and the Units shall be the responsibility of the Owners thereof, who shall maintain such Lots and Units in good condition and repair. Each Owner at their sole expense shall maintain and repair the interior of the Units, including floors and each and every structural element beneath the Unit, exterior windows, window frames, window wells and window well covers, and exterior doors and door frames. In addition to decorating and keeping the interior of the Unit in good repair and in a clean and sanitary condition, the Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating equipment, air conditioners, refrigerators, dishwashers, garbage disposals, ranges, toilets, or other appliances or fixtures that may be in, or connected with, his or her Lot. Any pipe, conduit, or other utility device or apparatus located within the exterior boundaries of the Unit shall be the responsibility of that Lot's Owner to maintain, repair, and replace. Each Owner shall be responsible for maintenance, repair and replacement of the landscaping (including grass, flower or planting beds, irrigation lines and fixtures, shrubs and trees) of any portion of a Lot or

Limited Common Area which is enclosed by a fence for the benefit and use of the Owner's Unit, excluding the fence itself. Each Unit and Lot shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Unit or Lot.

(b) Maintenance by Association. The Association shall provide for, as a Common Expense and general obligations, the care, maintenance, repair, and replacement of the exterior surfaces of the dwelling structures, including siding, and the roofs, gutters, and downspouts on such dwelling structures (but not including glass surfaces or the maintenance, repair, or replacement of glass, doors, door frames, windows, window frames, and also not including sealing, repairing or otherwise fixing foundations), as well as all improvements outside the walls of the dwelling structures on the Lots and improvements on and to the Limited Common Areas (including railings, patios, driveways, decks, carports, and fences). Any pipe, conduit, or other utility device or apparatus located outside the exterior boundaries of the Unit shall be the responsibility of the Association to maintain, repair, and replace, even for any portion that serves only a single Unit. The Association shall maintain the landscaping (including grass, flower or planting beds, irrigation lines and fixtures, shrubs and trees) upon and within the Landscape Maintenance Easement described in Section 5.08 (but shall have no obligation as to landscaping on any portion of a Lot or Limited Common Area which is enclosed by a fence for the benefit and use of a particular Unit). For any concrete flatwork under its maintenance obligations, the Association is not required to make repairs to minor cracking normally occurring in the type and style of the concrete flatwork.

(c) Clarification of Maintenance Responsibilities. To the extent it is not inconsistent with the provisions of the Declaration, the attached Exhibit B provides a summary of maintenance, repair, and replacement responsibilities for the Association and Owners.

(d) Negligence. For any maintenance or repair obligations set forth above, if the party responsible for the maintenance or repair of that item, element, or area is negligent in their performance of their maintenance or repair obligations, either in the failure to timely perform maintenance and repair or if the maintenance or repair is performed negligently, any damage to property resulting from such negligence shall be the responsibility of negligent party.

7. Article VIII of the Declaration is hereby deleted in its entirety and replaced with the following:

8.01 Insurance Requirement. The Association shall obtain insurance as required in this Declaration and as required by the Act. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies

may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies.

As used in this Article:

- (a) “Covered Loss” means a loss, resulting from a single event or occurrence that is covered by the Association’s property insurance policy.
- (b) “Unit Damage” means damage to a Unit.
- (c) “Unit Damage Percentage” means the percentage of total damage resulting in covered loss that is attributable to Unit Damage.

In the event of a covered loss, Owner(s) shall pay their portion of any Association deductible in accordance with that Unit’s Unit Damage Percentage.

8.02 Property Insurance.

(a) Hazard Insurance.

- (i) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas, Limited Common Areas, Units, buildings, and other facilities.

Any blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

(b) Flood Insurance. If the property insured by the Association is not situated in a Special Flood Hazard Area, the Association may nonetheless, if approved by a majority of Owners, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

(c) Earthquake Insurance. The Association may nonetheless, if approved by a majority of Owners, purchase earthquake insurance to cover earthquakes not otherwise covered by blanket property insurance.

(d) Associations Obligation to Segregate Property Insurance Deductible. The Association shall keep an amount equal to the Association’s property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.

(e) Association’s Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association’s property insurance policy deductible the

Association need not tender the claim to the Association's insurer.

8.03 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Areas or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence.

8.04 Directors' and Officers' Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). The policy shall:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;
- (c) Provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims; and
- (d) Provide coverage for defamation. In the discretion of the Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

8.05 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association may obtain insurance covering the theft or embezzlement of funds that shall:

- (a) Provide coverage for an amount of not less than the sum of three months regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and
- (b) Provide coverage for theft or embezzlement of funds by:
 - (i) Officers and Board of Directors member of the Association;
 - (ii) Employees and volunteers of the Association;
 - (iii) Any manager of the Association; and
 - (iv) Officers, directors, and employees of any manager of the Association.

8.06 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association; and shall not be payable to a holder of a security interest. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged

property if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any proceeds remaining after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Units. Each Owner hereby appoints the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

8.07 Owner Act Cannot Void Coverage under Any Policy. An Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

8.08 Waiver of Subrogation against Owners and Association. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

8.09 Owners' Individual Coverage. **EACH OWNER SHALL PURCHASE INDIVIDUAL INSURANCE COVERAGE IN THE AMOUNT RECOMMENDED BY THE OWNER'S INSURANCE AGENT.**

8. Article XI, Section 11.06 of the Declaration is hereby deleted in its entirety and replaced with the following:

11.06 Annual Meetings & Association Meetings. An annual meeting of the Owners shall be held no less than once each calendar year at a location and time designated by the Board. The Board may set the date, time, and location of the annual meeting in accordance with Section 11.05.

9. Article XIII, Section 13.06 of the Declaration is hereby deleted in its entirety and replaced with the following:

13.06 Reinvestment Fee. The Board shall have power to levy a one-time reinvestment fee when a change in ownership of a Unit occurs in the amount up to three (3) times the amount of the monthly regular assessments in effect at the time of the change of ownership, unless a lesser amount is determined by the Board.

SIGNATURES ON NEXT PAGE

INDEPENDENCE AVENUE OWNERS ASSOCIATION

By: _____
Its: Board President

STATE OF UTAH)
 : ss
COUNTY OF UTAH)

On this _____ day of _____, 2025, personally appeared before me _____, who being by me duly sworn, did say that they are the President and authorized representative of Independence Avenue Owners Association and that the within and foregoing instrument was signed on behalf of said corporation and duly acknowledged to me that they executed the same.

Notary Public
Residing at: _____
My Commission Expires: _____

Exhibit "A"
Legal Description (159 total Lots/Units)

Lots 1 - 24, INDEPENDENCE AVENUE PLAT A, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:058:0001 through 42:058:0024

Lots 25 - 57, INDEPENDENCE AVENUE PLAT B, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:062:0025 through 42:062:0057

Lots 58 - 92, INDEPENDENCE AVENUE PLAT C, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:067:0058 through 42:067:0092

Lots 93 through 128, INDEPENDENCE AVENUE PLAT D, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:076:0093 through 42:076:0128

Lots 129 - 159, INDEPENDENCE AVENUE PLAT E, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:077:0129 through 42:077:0159

Exhibit “B”
MAINTENANCE CHART

The following chart shows the division of responsibility for maintenance and repair of property between the Independence Avenue Owners Association and the Owners.

	EXTERIOR	HOA	OWNER
1	Maintenance, repair, painting, and replacement of roofs, siding, and stucco.	X	
2	Maintenance of, replace and repair of exterior brickwork.	X	
3	Maintenance of, replace and repair of front steps and sidewalks.	X	
4	Maintenance, repair, and replacement of the concrete foundation.		X
5	Maintenance of, replace and repair of patio and deck floor support structures.	X	
6	Maintenance of and repair original developer fences.	X	
7	Maintenance of, replace and repair of rain gutters and downspouts.	X	
8	Maintenance of, replace and repair of Owner added or modified fences.		X
9	Maintenance of, replace and repair patios, porches, decks, balconies, and driveways.	X	
10	Replacement, maintenance and repair of doors, hinges, frames, thresholds, locks, doorbells and chimes.		X
11	Replacement, maintenance and repair of garage floors and doors.		X
12	Replacement, maintenance, and repair of window, sliding glass doors, screens and frames, window wells and window well covers, and skylights, including paint and any other decorative finish inside the opening to any skylight.		X
13	Replacement, maintenance, and repair of all lights attached to the exterior walls and garage exterior, but Owner to remain responsible to replace bulbs (except HOA will replace light bulbs for all exterior garage lights).	X	
14	Maintenance of gas and electricity connections from the meters to the Unit.		X
15	Maintenance of water systems, or those portions of water systems, servicing a single Unit.	X	
16	Replacement and repairs to outside water spigots and bibs and those portions of water systems servicing more than one Unit.	X	
17	Replacement, repair and maintenance of phone lines or other communication lines, TV cables, air conditioning, heat pumps.		X
18	Owner improvements: skylights, solar panels, windows, awnings, attic vents and similar items.		X

	INTERIOR	HOA	OWNER
19	All interior painting, decorations, and furnishings from the inside of the unfinished walls and ceilings. This includes all appliances such as dishwashers, garbage disposals, ranges, refrigerators, furnaces, exhaust fans, attic vents, air conditioners, water heater, and intercom, telephone, and computer networks.		X
20	Maintenance, cleaning and repair of venting, chimneys, and fireplaces.		X
21	Maintenance, repair, and replacement of the electrical system for the city electric meter to the breaker panel and to all outlets including switches and light fixtures.		X
22	Maintenance, repair, and replacement of plumbing fixtures such as sinks, basins, toilets, and all interior pipes and valves.		X
23	Repair of cracks or other damage to interior walls, floors or ceilings caused by normal Unit settling.		X
24	Repairs of damage resulting from static water or seepage of water from any underground source and/or surface waters (including landscaping irrigation system failures)		X

	GROUNDS	HOA	OWNER
25	Lawn, flowers, trees, and shrubs in the unenclosed limited common and all common areas.	X	
26	Any trees, grass, shrubs or other landscaping enclosed by a fence for the exclusive use of a Lot/Unit.		X
27	Lawn watering system.	X	
28	Snow removal: fenced-in patios and decks, and driveways		X
29	Snow removal: roadways, front porch, common area, shared parking, sidewalks (including sidewalks from front steps to the road)	X	
30	Roadways, parking lots, curbs and gutters, sidewalks, and steps.	X	
31	Watering system for limited common areas	X	
32	Fences	X	

	OTHER	HOA	OWNER
33	Maintenance of all Common Areas and Common Area improvements	X	
34	Garbage collection. The Association can govern by rule adoption.	X	
35	Maintenance and repair of water system from the city water meter to the entrance to the exterior wall of each Unit.	X	