

When Recorded, Mail To:

City of Saratoga Springs
1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045
Attn: City Recorder
Fax: 801-766-9794



ENT 12936:2021 PG 1 of 7
ANDREA ALLEN
UTAH COUNTY RECORDER
2021 Jan 25 2:02 pm FEE 0.00 BY MA
RECORDED FOR SARATOGA SPRINGS CITY

Parcel I.D. #:

STORM WATER DISCHARGE EASEMENT AND AGREEMENT

This STORM WATER DISCHARGE EASEMENT AND AGREEMENT (this “**Agreement**”) is made this 18 day of January, 2021, (the “**Effective Date**”) by and between D. R. Horton, Inc., a Delaware corporation (“**Grantor**”) and the City of Saratoga Springs, Utah (the “**Grantee**”). Grantor and Grantees are sometimes referred to herein individually as a “**Party**,” and collectively as the “**Parties**.”

RECITALS

A. Grantor is the owner of certain real property located in the City of Saratoga Springs, Utah County, Utah, part of Grantor’s Northshore development, as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the “**Grantor’s Property**”).

B. Grantee owns storm water facilities and is responsible for public storm water flows uphill and upstream from Grantor’s Property.

C. Grantor, in order to develop the Project, must meet applicable development standards and regulations for storm water discharge and therefore has requested to provide Grantee with a perpetual, non-exclusive storm water easement on, over, across, under, and through certain portions of Grantor’s Property more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by this reference (the “**Drainage Easement Area**”), for the purposes set forth in this Agreement.

D. Grantor is willing to grant such easement to Grantees, subject to the terms and conditions set forth in this Agreement.

TERMS AND CONDITIONS

NOW, THEREFORE, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantees hereby agree as follows:

1. **Grant of Easement.** Grantor does hereby convey, without warranty, unto Grantees for the benefit of Grantees, a non-exclusive easement (the “**Drainage Easement**”) on, over, across,

under, and through the Drainage Easement Area for the purposes of discharge of storm water from the Project at the point on Grantor's Property shown on Exhibit A. The storm water discharge shall be limited to no more than 58 cubic feet per second.

2. **Reservation by Grantor.** Notwithstanding anything to the contrary stated herein, Grantor hereby reserves the right to use the Drainage Easement Area for any use not inconsistent with the Grantee's permitted use of the Drainage Easement Area. Without limiting the above, Grantor reserves the right: (i) to relocate the Improvements and the Drainage Easement Area at any time at the requesting party's cost and expense, provided that such relocation provides Grantees with comparable easement rights and functionality, provides equal capacity as currently existing in the improvements, and relocation terminates the use of the easement in its prior location, and relocation meets local, state, and federal standards and regulations; and (ii) to grant additional rights, easements or encumbrances to other third parties to use or occupy the Drainage Easement Area as long as the additional rights, easements, or encumbrances do not materially prevent or impair the use or exercise of the easement rights granted herein.

Notwithstanding anything to the contrary herein, in the event Grantor decides to relocate the Drainage Easement Area and/or improvements, the area to which the Drainage Easement Area and/or improvements are to be relocated shall be subject to Grantees' approval, which approval shall not be unreasonably withheld, conditioned, or delayed and shall be based on Grantees' current engineering standards and specifications.

3. **Maintenance and Restoration.** Grantee will, at its sole cost and expense, maintain and keep in in good repair all underground public conveyance and operating facilities and equipment, including without limitation boxes, pipes, grates, and underground equipment. Grantor, at its sole cost and expense, shall maintain and repair the non-public improvements in the Drainage Easement area, including the basin area and surface improvements, in good order and condition so that Grantees will perpetually be able to discharge storm water onto Grantor's Property in accordance with the terms of this Easement. To the extent possible, Grantor shall promptly repair any damage to the improvements in the Drainage Easement area caused by Grantor and/or Grantor's Agents. In the event any Party does not maintain or repair the improvements for which they are responsible, the other Party may enter onto Grantor's Property to maintain and repair the improvements to allow the full benefits and rights of this Easement Agreement. In the case of such maintenance or repair by any Party, the responsible Party shall reimburse the repairing Party's costs within 30 days of receiving an invoice.

4. **Termination.** This Agreement shall continue in perpetuity unless all Parties otherwise agree in writing to terminate it sooner.

5. **Assignment to HOA.** At such time Grantor conveys ownership of the Drainage Easement Area to another entity such as a HOA, Owner's Association, or other similar entity, such transfer shall include the assignment and transfer of all terms and obligations under this Agreement. Thereafter, the successor owner of the Drainage Easement Area shall in all respects considered to have assumed the role and obligations of Grantor hereunder.

6. **Notices.** All notices required to be given under this Agreement must be in writing and shall be deemed to have been properly given or served (i) on the date of personal service, (ii) three (3) days after the notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt requested, and (iii) on the date the notice is delivered by a courier service (including Federal Express, UPS, or similar operation) to the address of the Party to whom it is directed, provided it is sent prepaid, return receipt requested. The addresses of the signatories to this Agreement are set forth below:

If to Grantor:	Northshore Owners Association c/o D. R. Horton 12351 S. Gateway Park Place, D-100 Draper, Utah 84020
If to Grantees:	City of Saratoga Springs 1307 N. Commerce Drive, Suite 200 Saratoga Springs, UT 84045 Attn: City Engineer

7. **Miscellaneous.**

7.1. **Binding Effect.** Except as expressly stated herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, as well as the successors and assigns of such Persons.

7.2. **Partial Invalidity.** If any term, covenant or condition of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the extent permitted by law.

7.3. **Captions.** The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants or conditions contained herein.

7.4. **Amendment.** This Agreement may be canceled, changed, modified or amended in whole or in part only by the written and recorded agreement of the Parties or their successor and assigns (as determined by the provisions herein).

7.5. **Counterparts.** This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute but one Agreement.

7.6. **Attorney Fees.** In the event any legal action or proceeding for the enforcement of any right or obligations herein contained is commenced, the prevailing party in

such action or proceeding shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

7.7. **Assignment.** The Parties shall not assign their rights and obligations under this Agreement without the prior written consent of all Parties, which consent may be granted or withheld in Grantors sole and absolute discretion and for any reason or no reason at all.

7.8. **Covenants to Run with the Land.** The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with the land subject to this Agreement and be binding on all successors and assigns.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

GRANTOR:

D. R. Horton, Inc.

Adam R. Loser
Print name: Adam R. Loser

Its: Vice President

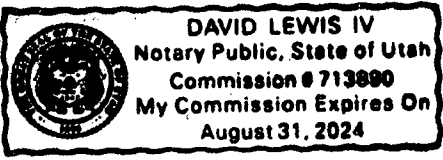
STATE OF UTAH)
 :SS
COUNTY OF Salt Lake)

On this 18 day of January, 2021, personally appeared before me Adam Loser, personally known to me to be an Authorized Agent of as Authorized Agent for Grantor and that said instrument is the free and voluntary act of said Grantor, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said Grantor and that said Grantor executed the same.

WITNESS my hand and official seal.


David Lewis

Notary Public for the
State of Utah



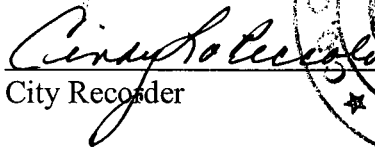
GRANTEE:

City of Saratoga Springs, Utah



Mark Christensen
City Manager

ATTEST:



City Recorder

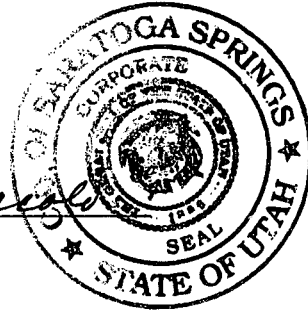


EXHIBIT A

[Legal Description and Depiction of Grantor's Property and the Drainage Easement Area]

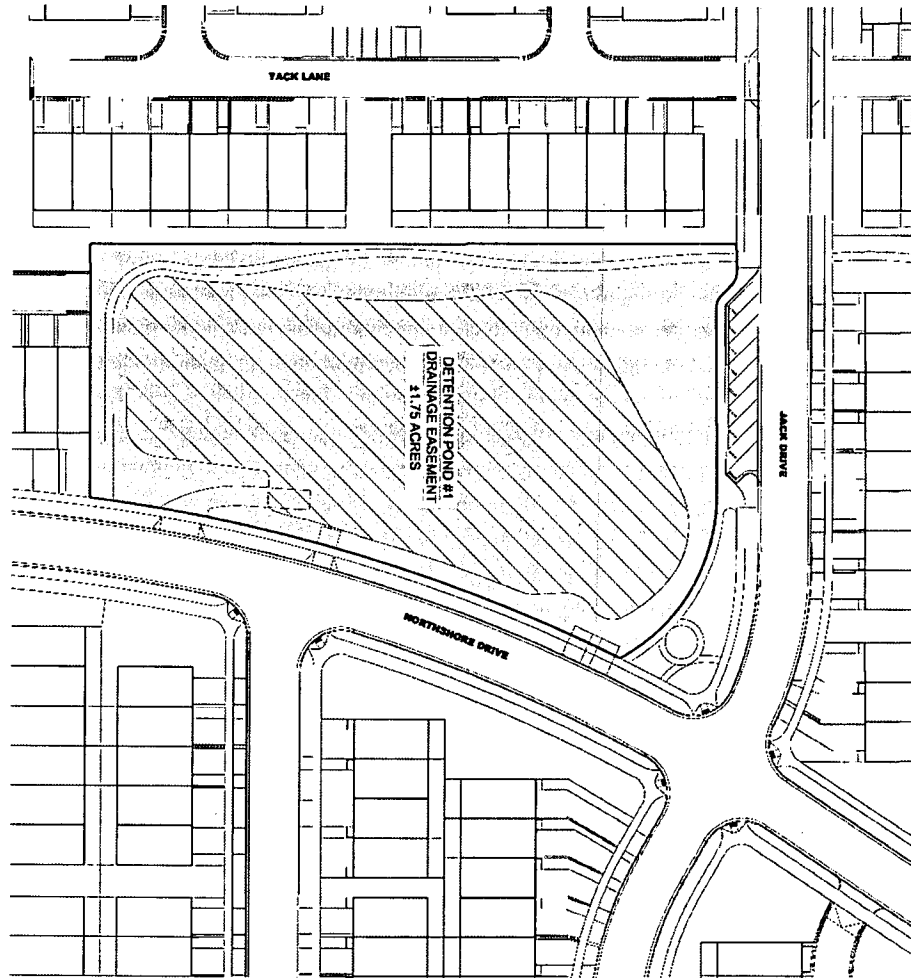
LEI Job No. 17-0110
(October 20, 2020)

DETENTION POND NO 1 DRAINAGE EASEMENT

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 5 SOUTH, RANGE 1 WEST, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S0°10'34"E ALONG THE SECTION LINE 446.88 FEET AND WEST 1085.87 FROM THE EAST QUARTER CORNER OF SECTION 24, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTHWESTERLY ALONG THE ARC OF A 1044.50 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (RADIUS BEARS: S64°14'43"E) 341.08 FEET THROUGH A CENTRAL ANGLE OF 18°42'35" (CHORD: S16°24'00"W 339.56 FEET); THENCE S89°49'32"W 137.20 FEET; THENCE S89°48'27"W 16.61 FEET; THENCE N0°11'33"W 397.10 FEET; THENCE N89°48'27"E 17.38 FEET; THENCE ALONG THE ARC OF A 10.00 FOOT RADIUS CURVE TO THE RIGHT 7.85 FEET THROUGH A CENTRAL ANGLE OF 45°00'00" (CHORD: S67°41'33"E 7.65 FEET); THENCE S45°11'33"E 9.39 FEET; THENCE ALONG THE ARC OF A 10.00 FOOT RADIUS CURVE TO THE LEFT 7.85 FEET THROUGH A CENTRAL ANGLE OF 45°00'00" (CHORD: S67°41'33"E 7.65 FEET); THENCE N89°48'27"E 115.05 FEET; THENCE ALONG THE ARC OF A 109.98 FOOT RADIUS CURVE TO THE RIGHT 120.00 FEET THROUGH A CENTRAL ANGLE OF 62°31'01" (CHORD: S58°56'02"E 114.13 FEET) TO THE POINT OF BEGINNING.

CONTAINS: ±1.75 ACRES
76,222 SQ FT



1	REVISIONS NO. DATE BY 1 11/15/2021 JLM
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NORTHSHORE
 CITY OF SARATOGA SPRINGS, UTAH COUNTY, UTAH
DETENTION POND #1 DRAINAGE EASEMENT EXHIBIT


LBI
 ENGINEERS
 SURVEYORS
 PLANNERS
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