

Big Ditch Piping and Easement Agreement with Millcreek Cove Apartments, LLC

This Agreement is entered into by and between Millcreek Cove Apartments, LLC, a Utah Limited Liability Company and Big Ditch Irrigation Company, with respect to the following:

RECITALS:

- A. Millcreek Cove Apartments, LLC is the owner of record of the following property situated in Salt Lake County, Utah, and more particularly described on attached Exhibit A (the "Property").
- B. Big Ditch Irrigation Company owns an open irrigation ditch running East/West along the Southern boundary of the Property.
- C. Millcreek Cove Apartments, LLC desires to pipe the open irrigation ditch on and over the Property.
- D. The parties desire to formalize their agreement in writing.

For and in consideration of the Recitals, the mutual covenants of the parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Commensurate with the parties' execution of this Agreement, Millcreek Cove Apartments, LLC shall pay to Big Ditch Irrigation Company a one time fee of \$3,000 as the Ditch Piping and Easement Agreement fee.
2. Big Ditch hereby authorizes Millcreek Cove Apartments, LLC to enclose the open irrigation ditch in a pipe along the length of the Property on the terms and conditions set forth herein (the "Irrigation Pipe").
3. The general specifications and layout of the Irrigation Pipe shall be 36" HDPE double wall pipe going into a manhole access box with a 24" HDPE double wall pipe coming out extending to the end of the property where it shall connect to the existing pipe. The lid to the man access box shall be lockable with a 2 keys. Big Ditch Irrigation shall approve the material list prior to installation, shall approve the piping project after installation but before covering by dirt and any improvements. Piping project shall not be covered until written approval is given to Millcreek Cove Apartments, LLC. Big Ditch Irrigation will wet test the piping project prior to covering with fill.
4. Millcreek Cove Apartments, LLC hereby acknowledges and grants to Big Ditch Irrigation Company, a ten (10) foot wide easement for the completed Irrigation Pipe for repair and maintenance of said Irrigation Pipe running the east-west length of the southerly property line of the Property, which will border the southerly property line of the Property on the south side thereof, and extend North ten (10) feet (the "Irrigation Pipe Easement").
5. All costs to repair and replace any portion of the Irrigation Pipe shall be borne by Millcreek Cove Apartments, LLC and its successors in interest including costs to remove improvements on top of Irrigation Pipe Easement. Landscaping like tree roots that penetrate the Irrigation Pipe shall be removed at Mill Creek Cove Apartments, LLC's or its successors expense. All bills created hereunder shall be promptly paid within 10 business days of invoice.
6. No storm drain water from the above described property shall directly or indirectly enter the Irrigation Pipe.
7. Millcreek Cove Apartments, LLC, and their successors in interests shall indemnify Big Ditch Irrigation Company from all legal costs, damages, and expenses incurred or created as a result of the piping of the ditch on the subject property and this agreement.
8. In the event of legal action to interpret or enforce this agreement the prevailing party shall be entitled to recover its reasonable attorney's fees and costs. Any legal matters created hereunder shall be tried in the 4th District Court in Utah County, the headquarters of Big Ditch Irrigation Company.

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10/10/2016 02:42 PM \$16.00
Book - 10486 Pg - 1761-1764
GARREY M. OTT
REDORDER, SALT LAKE COUNTY, UTAH

MILLCREEK COVE APTS LLC
4975 S STATE ST
MURRAY UT 84107
BY: SMP, DEPUTY - M14 P.

9. This agreement shall be recorded on the properties described herein by Millcreek Cove Apartments, LLC within 5 business days of signing.

10. Notice of this Agreement shall appear on the plat informing owners of the easement and that removing and replacing any improvements on the easement shall be borne by the property owner of record.

11. The benefits and burdens of this Agreement touch and concern, and shall run with and be appurtenant to, the herein described Property.

IN WITNESS WHEREOF, the parties do hereby execute this Agreement on the dates set forth respectively below.

BIG DITCH IRRIGATION COMPANY:

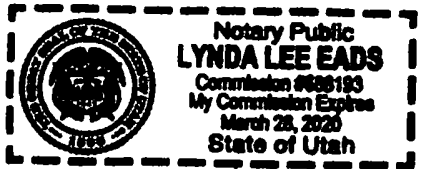
BY: [Signature] Date 10/5/2016
135 S Mountain Way Drive Orem, UT 84058 Tel. 801-318-8239

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

On this 5 day of Oct, 2016, personally appeared before me, Paul Southam, who duly acknowledged to me that he is the _____ of Big Ditch Irrigation Company, and that he signed the foregoing instrument for and on behalf of Big Ditch Irrigation Company.

[Signature]
Notary Public

My Commission Expires:



MILLCREEK COVE APARTMENTS, LLC;

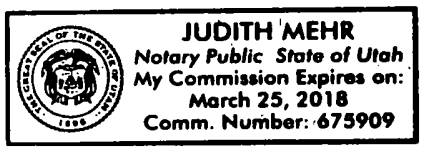
BY: *Corey Jones* Date 10/04/16
Corey A. Jones, Manager
4873 S State Street, Murray, Utah 84107 Tel. 801-520-4600

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

On this 4th day of October, 2016, personally appeared before me, Corey Jones, who duly acknowledged to me that he is the Manager of Millcreek Cove Apartments, LLC, and that he signed the foregoing instrument for and on behalf of Millcreek Cove Apartments, LLC.

Judith Mehr
Notary Public

My Commission Expires:



ATTACHMENT
New Description

NEW LOT CONSOLIDATION

Record Owner(s): _____

Described as:

A consolidated parcel of land being those three (3) entire tracts located in a portion of Lots 8 and 9, Block 7, Ten Acre Plat "A", Big Field Survey being in the Southwest Quarter of Section 31, Township 1 South, Range 1 East, Salt Lake Base and Meridian. Said entire tracts were conveyed to B.D.B. and Associates, L.L.C. per that Warranty Deed (16-31-378-009) recorded February 18, 2016 as Entry No. 12224787 in Book 10404, at Page 16 in the Office of the Salt Lake County Recorder and that Warranty Deed, known as parcel 1 and 2 (16-31-378-010 and 16-31-378-011) recorded October 13, 2015 as Entry No. 12149882 in Book 10369, at Page 6915 in the Office of said Recorder and also shown on those certain Records of Survey filed as No's. S2016-02-0228 and S2016-05-0472 in the Office of the Salt Lake County Surveyor. The boundary of said consolidated parcel of land is described as follows:

Beginning at the Northwest Corner of said Lot 9, which is 574.15 feet S. 00°01'11" W. (Record = South) from the Northwest corner of Lot 9; thence N.00°01'11" E. (Record = North) 105.00 feet along the westerly boundary lines of said entire tracts to the northwesterly corner of parcel 16-31-378-009; thence S. 89°57'16" E. (Record = East) 379.38 feet along the northerly boundary line to the northeasterly corner of said parcel 16-31-378-009; thence S. 00°10'31" W. (Record = South) 105.00 feet along the easterly boundary lines of said entire tracts to the southeasterly corner of parcel 16-32-378-010; thence S. 89°58'00" W. (Record = West) 123.64 feet along the southerly boundary line of said parcel to the northeasterly corner of parcel 16-31-378-011; thence along the easterly, southerly and westerly boundary lines of said parcel 16-31-378-011 the following five (5) courses: 1) S. 00°30'42" W. (Record = South 56.25 feet) 55.90 feet; 2) N. 89°59'46" W. (Record = 22.73 feet) 22.00 feet; 3) S. 00°00'14" W. (Record = S. 00°01'01" W.) 1.50 feet; 4) N. 89°59'46" W. (Record = N. 89°58'59" W.) 232.99 feet; 5) N. 00°01'11" E. (Record = North) 57.75 feet to the ***Point of Beginning.***

The above-described consolidated parcel of land contains 54,514 square feet in area or 1.252 acres more or less.