

ENTRY NO. 01172303

09/02/2021 02:10:47 PM B: 2690 P: 0118

Easements PAGE 1/3

RHONDA FRANCIS, SUMMIT COUNTY RECORDER

FEE 40.00 BY WOHALI PARTNERS LLC



WHEN RECORDED, RETURN TO:

SNELL & WILMER L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, UT 84101
Attn: Wade R. Budge, Esq.

Affects Parcel Nos. CT-382-A-1;
CT-382-A-2

ACCESS AND UTILITY EASEMENT AGREEMENT

This **ACCESS AND UTILITY EASEMENT AGREEMENT** ("Agreement") is made and entered into as of this ___ day of September, 2021, by and among **DAVID ELLIOT WILDE, trustee of the DAVID ELLIOT WILDE REVOCABLE TRUST DATED JULY 16, 1998**, and **DEBRA A. WILDE, trustee of the DEBRA A. WILDE REVOCABLE TRUST DATED JULY 16, 1998** (collectively, "**Grantor**"), and **WOHALI PARTNERS, LLC** a Utah limited liability company ("**Grantee**"). Grantor and Grantee are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. Grantor is the owner of certain real property located in Coalville City, Summit County, Utah, as more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference ("**Grantor Parcel**").

B. Grantee is under contract with Grantor to purchase certain real property located in Coalville City, Summit County, Utah, as more particularly described on **Exhibit "B"** attached hereto and incorporated herein by this reference ("**Grantee Parcel**").

C. Grantee is purchasing the Grantee Parcel to construct, install, operate, and maintain a water pump station and subsurface water lines to provide other real property owned by Grantee, and potentially other real properties, in Coalville City, Utah with secondary, irrigation water for Grantee's residents and other residents of Coalville City, Utah.

D. The Grantor Parcel is adjacent to the Weber River and surrounds the Grantee Parcel. In order to provide Grantee with access and utility service to and from the Grantee Parcel and Weber River, Grantor has agreed to grant Grantee a non-exclusive, perpetual easement for access, ingress and egress, and utility services for the benefit of Grantee. Further, Grantor agrees to provide Grantee a non-exclusive, perpetual easement in order to provide Grantee Parcel power from a certain power source located on Grantor Parcel, as more fully discussed herein.

E. Grantor and Grantee now desire to enter into this Agreement to memorialize their agreement with respect to Grantor's grants of easement to Grantee, in accordance with the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties hereby agree as follows:

1. Easements. Grantor hereby grants to Grantee:

(a) Access Easement. A forty-five foot (45') wide non-exclusive, perpetual easement and right-of-way (the "**Access Easement**") over, upon, and across, that portion of Grantor Parcel that is reasonably necessary to provide access from Icy Springs Road to Grantee Parcel and from Grantee Parcel to Weber River, as is approximately depicted on **Exhibit "C"** attached hereto and incorporated herein by this reference (the "**Access & Utility Easement Area**"), to allow Grantee and its successors and assigns, tenants and licensees, and its and their respective agents, contractors, invitees, tenants, licensees, employees, consultants, utility providers, successors, and assigns (collectively, the "**Permittees**"), vehicular and pedestrian ingress, egress, and access over the Access & Utility Easement Area.

(b) Utility Easement. A non-exclusive, perpetual easement within the bounds of the Access & Utility Easement Area, and any portion of Grantor Parcel between the Grantee Parcel and the Weber River (if any) (the "**Utility Easement**"), for the purpose of installation, construction, maintenance, use, repair, replacement, and removal of underground water transmission and utility lines and facilities by Grantee or Grantee's Permittees as may be necessary or appropriate, as determined by Grantee in its sole discretion, together with a right of access to the Access & Utility Easement Area, including the surface or any portion thereof, to exercise the foregoing rights.

(c) Power Line Easement. A twenty foot wide (20') non-exclusive, permanent easement (the "**Transmission Easement**") for installation, construction, maintenance, use, repair, replacement, removal, and use of overhead or underground electrical transmission facilities, including, without limitation, poles, towers, transformers, and other structures, guys, wires, cables, conduits, and appurtenances thereto, any and all other facilities, equipment, and improvements related thereto by Grantee or Grantee's Permittees, and located over, upon, under, or across the Grantor Parcel, as more approximately depicted on **Exhibit "C"** attached hereto as the Transmission Easement Area (the "**Transmission Easement Area**"), together with a right of access to and from the Transmission Easement Area, including the surface or any portions thereof, to exercise the foregoing rights. The purpose of the Transmission Easement is to deliver or facilitate the delivery of electrical power from a power pole located generally towards the northwestern corner of the Grantor Parcel (and generally due west of the Grantee Parcel) to the Grantee Parcel.

The Access Easement, Utility Easement, and Transmission Easement are referred to herein collectively as the "**Easements**". The Access & Utility Easement Area and the Transmission Easement Area are referred to herein collectively as the "**Easement Areas**". The approximate locations of the Easement Areas depicted on **Exhibit "C"** are approximations only and shall be adjusted, as necessary or reasonable by the Parties, to carry out the purposes of such Easements discussed herein.

2. **Use and Maintenance.** Grantor shall not erect, construct or permit any fencing, gates, or other barrier on, over, or across the Easement Areas without first providing all necessary keys or access codes to Grantee to such fencing, gates, or other barriers and provided such do not unreasonably restrict access to the Grantee Parcel or the Easements and improvements associated therewith, respectively. Grantor, at Grantor's sole cost and expense, shall maintain the Easement Areas; *provided, however,* that Grantee shall exercise its rights hereunder in a manner so as not to unreasonably damage the Easement Areas or Grantor Parcel or any property that may at any time be located thereon. Grantee shall promptly repair any damage caused by Grantee or Grantee's Permittees, and shall restore Grantor Parcel (including the Easement Areas) or any property located thereon to substantially the same condition which existed immediately prior to any damage caused by Grantee or Grantee's Permittees.

3. **Dedication, Private Use.** The provisions of this Agreement are not intended to and do not constitute a dedication for public use of the Easement Areas. The rights herein created are private and for the benefit only of Grantee and Grantee's Permittees; *provided, however,* the Parties agree that the Grantee has the exclusive right to elect to dedicate said Easements and the improvements related thereto, respectively, to an appropriate governmental agency. If required in connection with such dedication, Grantor shall execute an instrument consenting to the Grantee's dedication of the Easements and related improvements.

4. **Running of Benefits and Burdens.** All provisions of this Agreement, including the benefits and burdens, shall run with title to the Grantor Parcel and Grantee Parcel, shall benefit the Grantee Parcel, and shall be binding upon and shall inure to the benefit of the successors and assigns of Grantor and Grantee, respectively.

5. **Attorneys' Fees.** In the event of any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to receive its reasonable attorneys' fees and court costs in connection with said action, with such attorneys' fees and court costs to be fixed by the court and not a jury.

6. **Choice of Law.** This Agreement is made and is to be performed in the State of Utah and shall be governed by the internal, substantive laws of the State of Utah, without regard to any conflict of laws or principles.

7. **Amendments.** This Agreement may be amended only by recording, in the Official Records of Summit County, Utah, an instrument in writing reciting such amendment, bearing the acknowledged signatures of both Parties hereto, or of their respective successors and assigns.

8. **Waiver.** The waiver of, or failure to enforce, any breach or violation of any of the covenants, easements or conditions herein contained shall not be deemed to be a waiver of the right to enforce, or be deemed an abandonment of a particular covenant, easement or condition, nor shall it be deemed to be a waiver of the right to enforce any subsequent breach or violation of such covenant, easement or condition, regardless of whether any party affected thereby had knowledge of the breach or violation.

9. **Non-Merger.** Common ownership of the Grantor Parcel or of the Grantee Parcel shall not effect a merger or termination of the interests created herein.

10. Severability. Invalidation of any one of the covenants, easements or conditions herein contained, or any part thereof, shall not affect any of the other covenants, easements or conditions herein contained, or any part or parts thereof, which shall remain in full force and effect.

11. Headings. The headings of this Agreement are for purposes of reference only and will not limit or define the meaning of any provision of this Agreement.

12. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original but all of which will constitute one and the same instrument.

[Signature and Acknowledgment Pages Follow]

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

GRANTOR:

DAVID ELLIOT WILDE REVOCABLE TRUST

By: David Elliot Wilde - Trustee
David Elliot Wilde, Trustee

DEBRA A. WILDE REVOCABLE TRUST

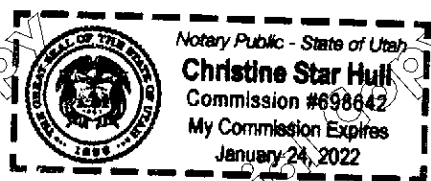
By: Debra A. Wilde, Trustee
Debra A. Wilde, Trustee

STATE OF UTAH)
COUNTY OF Summit) ss.

The foregoing instrument was acknowledged before me this 2 day of September 2021, by David Elliot Wilde, as trustee of the David Elliot Wilde Revocable Trust.

Christine Star Hull
Notary Public

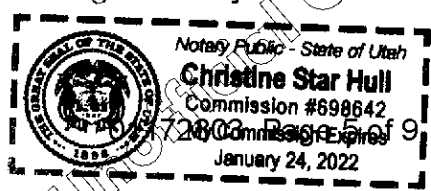
STATE OF UTAH)
COUNTY OF Summit) ss.



The foregoing instrument was acknowledged before me this 2 day of September 2021, by Debra A. Wilde, as trustee of the Debra A. Wilde Revocable Trust.

Christine Star Hull
Notary Public

[Grantee Signature Page Follows]



GRANTEE:

WOHALI PARTNERS LLC,
a Utah limited liability company

By: [Signature]
Name: JAMES S. BADEN
Its: VICE PRESIDENT

STATE OF UTAH)
COUNTY OF Summit) ss.

The foregoing instrument was acknowledged before me this 2 day of September 2021, by James S. Baden, the vice president of **WOHALI PARTNERS LLC**, a Utah limited liability company, on behalf of said limited liability company.

[Signature]
Notary Public

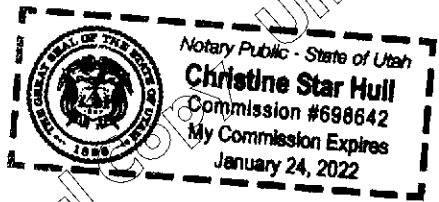


EXHIBIT "A"

Legal Description of Grantor Parcel

BEGINNING AT A POINT WHICH IS S 0°48'33" E 966.18 FEET, FROM THE FOUND NORTH QUARTER CORNER OF SECTION 17, TOWNSHIP 2 NORTH, RANGE 5 EAST SLB&M, AND RUNNING THENCE NORTHEASTERLY ALONG A 970 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, (CHORD BEARS N 86°39'47" E 27.60 FEET), THOUGH A CENTRAL ANGLE OF 1°37'50", A DISTANCE 27.60 FEET; THENCE N 85°50'52" E 66.21 FEET; THENCE S 4°36'45" W 69.92 FEET; THENCE S 27°55'21" W 155.08 FEET; THENCE S 12°28'29" E 131.58 FEET; THENCE S 85°55'28" W 39.19 FEET; THENCE S 0°48'33" E 710.03 FEET TO AN EXISTING FENCE LINE; THENCE ALONG SAID FENCE LINE FOLLOWING TWO (2) COURSES, 1) S 79°34'05" W 195.47 FEET; 2) N 88°31'00" W 97.56 FEET; THENCE N 0°48'26" W 993.77 FEET; THENCE S 88°40'16" E 290.37 FEET; THENCE N 0°48'33" W 87.47 FEET TO THE POINT OF BEGINNING, LOCATED IN THE NORTHWEST AND THE NORTHEAST QUARTER OF SAID SECTION 17.

LESS THAN AND EXCEPTING PARCEL CT-382-A-1:

BEGINNING AT A POINT WHICH IS S 0°48'33" E 1120.72 FEET, AND S 89°11'27" W 29.63 FEET FROM THE FOUND NORTH QUARTER CORNER OF SECTION 17, TOWNSHIP 2 NORTH, RANGE 5 EAST SLB&M, AND RUNNING THENCE S 76°16'04" E 40.00 FEET; THENCE S 13°39'40" W 20.00 FEET; THENCE N 76°16'04" W 40.00 FEET; THENCE N 13°39'40" E 20.00 FEET; LOCATED IN THE NORTHWEST AND THE NORTHEAST QUARTER OF SAID SECTION 17.

(For reference purposes only, Parcel No. CT-382-A-2)

EXHIBIT "B"

Legal Description of Grantee Parcel

BEGINNING AT A POINT WHICH IS S 0°48'33" E 1120.72 FEET, AND S 89°11'27" W 29.63 FEET FROM THE FOUND NORTH QUARTER CORNER OF SECTION 17 TOWNSHIP 2 NORTH, RANGE 5 EAST SLB&M, AND RUNNING THENCE S 76°16'04" E 40.00 FEET; THENCE S 13°39'40" W 20.00 FEET; THENCE N 76°16'04" W 40.00 FEET; THENCE N 13°39'40" E 20.00 FEET; LOCATED IN THE NORTHWEST AND THE NORTHEAST QUARTER OF SAID SECTION 17.

(For reference purposes only: Parcel No. CT-382-A-1)

EXHIBIT "C"

Depiction of the Approximate Easement Areas

A portion of the Grantor Parcel, the full Grantee Parcel, the shaded Access & Utility Easement Area, and the cross-hatched Transmission Easement Area are approximately depicted and labeled below, as follows:

