

22
7

E 3095048 B 7022 P 189-194
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
05/24/2018 12:06 PM
FEE \$22.00 Pgs: 6
DEP RTT REC'D FOR VICTOR A TAYLOR
ESQ

WHEN RECORDED RETURN TO:

Victor A. Taylor, Esq.
Durham Jones & Pinegar
111 South Main Street, Suite 2400
Salt Lake City, Utah 84111

RETURNED
MAY 24 2018

SECOND AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT

[Amending the Reciprocal Easement Agreement, recorded May 4, 2015 as Entry No. 2864780 in Book 6259 at Page 1051 of the official records (the "*Official Records*") of the Davis County, Utah Recorder, as previously amended by the First Amendment to Reciprocal Easement Agreement, recorded March 20, 2017 as Entry No. 3009177 in Book 6725 at Page 1071 of the Official Records]

THIS AMENDMENT (this "*Amendment*") is entered into as of the 24 day of May, 2018, between **SPT PRAIRIE 391 NORTH CB DRIVE, LLC**, a Delaware limited liability company ("*SPT*"), and **PARK LANE COMMONS TWO, LLC**, a Utah limited liability company ("*Developer*"). (SPT and Developer are referred to in this Amendment collectively as the "*Parties*" and individually as a "*Party*".)

Recitals:

A. The Parties or their respective predecessors in interest entered into the Reciprocal Easement Agreement (the "*Original REA*"), dated May 4, 2015 and recorded May 4, 2015 as Entry No. 2864780 in Book 6259 at Page 1051 of the Official Records, and the First Amendment to Reciprocal Easement Agreement (the "*First Amendment*"), dated March 20, 2017 and recorded March 20, 2017 as Entry No. 3009177 in Book 6725 at Page 1071 of the Official Records. (The Original REA, as amended by the First Amendment, is referred to in this Amendment simply as the "*REA*"). Any term used in this Amendment that is not defined shall have the same meaning as set forth in the REA.

B. The REA covers certain real property located in Davis County, Utah, described as follows:

Cabela's Parcel—Parcel No. 08-552-0201 08-591-0403

All of Lot 403, Park Lane Commons – Phase 4, according to the official plat thereof, recorded March 20, 2017 as Entry No. 3008957 in the office of the Country Recorder of Davis County, Utah.

Developer's Parcel A—Parcel No. 08-552-0202

All of Lot 202, Park Lane Commons – Phase 2, according to the official plat thereof, recorded April 29, 2015 as Entry No. 2863550 in the office of the Country Recorder of Davis County, Utah.

Developer's Parcel B—Parcel No. 08-552-0201 08-591-0408

All of Lot 402, Park Lane Commons – Phase 4, according to the official plat thereof, recorded March 20, 2017 as Entry No. 3008957 in the office of the Country Recorder of Davis County, Utah.

C. SPT owns the Cabela's Parcel and Developer owns Developer's Parcel A and Developer's Parcel B.

D. The Parties desire to further amend the REA to, among other things, increase the height limitation and widen the architectural feature for the building to be constructed on Developer's Parcel B.

Agreement:

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. **Amendments.** The REA is hereby amended as set forth in this Paragraph 1.

(a) The first sentence in Paragraph 7(a) of the Original REA provides that "Only one building shall be permitted on the Developer Parcel." That sentence shall be understood to mean that only one building shall be permitted on Developer Parcel A and only one building shall be permitted on Developer Parcel B.

(b) The second sentence in Paragraph 5 of the First Amendment is revised to read as follows (with the revised language underlined):

Notwithstanding anything in the foregoing to the contrary, Cabela's and Developer agree that the building to be constructed on Developer's Parcel B shall not exceed two (2) stories or thirty-two (32) feet in height and shall have a floor area consisting of no greater than twenty thousand (20,000) square feet; provided, however, that Developer may construct one reasonable architectural feature thereon not to exceed four (4) feet in height so long as Developer secures the prior written approval of Cabela's pursuant to Section 7(c) of the REA; provided further, that the architectural feature shall be no wider than fifty percent (50%) of the building's roofline.

2. **Enforceability.** Each Party represents and warrants that:

(a) such Party was duly formed and is validly existing and in good standing under the laws of the state of its formation;

(b) such Party has the requisite power and authority under all applicable laws and its governing documents to execute, deliver and perform its obligations under this Amendment;

(c) the individual executing this Amendment on behalf of such Party has full power and authority under such Party's governing documents to execute and deliver this Amendment in the name of, and on behalf of, such Party and to cause such Party to perform its obligations under this Amendment;

(d) this Amendment has been duly authorized, executed and delivered by such Party;
and

(e) this Amendment is the legal, valid and binding obligation of such Party, and is enforceable against such Party in accordance with its terms.

3. General Provisions. In the event of any conflict between the provisions of the REA and the provisions of this Amendment, the provisions of this Amendment shall control. Except as set forth in this Amendment, the REA is ratified and affirmed in its entirety. This Amendment shall inure to the benefit of, and be binding on, the Parties and their respective successors and assigns. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the state of Utah. This Amendment may be executed in any number of duplicate originals or counterparts, each of which when so executed shall constitute in the aggregate but one and the same document.

[Remainder of page intentionally left blank; signatures on following page]

THE PARTIES have executed this Amendment on the respective dates set forth below, to be effective as of the date first set forth above.

SPT:

SPT PRAIRIE 391 NORTH CB DRIVE, LLC,
a Delaware limited liability company

By 

Print or Type Name of Signatory:

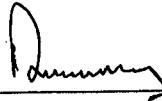
ANDREW J. SOSSON

Its COO

Date 5/3/18

State of New York)
County of Nassau) ss.

The foregoing instrument was acknowledged before me this 3rd day of May, 2018, by Andrew Sossen, the Authorized Signatory of SPT Prairie 391 North CB Drive, LLC.

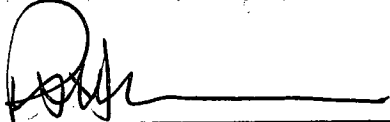

Notary Public

My Commission Expires:
9/28/2019

Residing at:
Nassau County

DEVELOPER:

PARK LANE COMMONS TWO, LLC,
a Utah limited liability company

By 

Print or Type Name of Signatory:

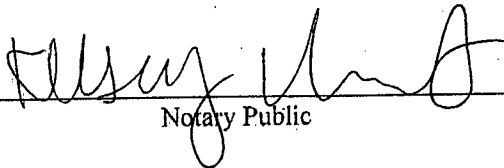
RICHARD A. HAWS

Its Manager

Date 5/24/18

State of Utah)
County of DAVIS) ss.

The foregoing instrument was acknowledged before me this 24th day of May, 2018, by Richard A. Haws, the Manager of Park Lane Commons Two, LLC.


Notary Public

My Commission Expires:
12/15/19

Residing at:
WYBER CO., UT

