

WHEN RECORDED, PLEASE RETURN TO:

Stay FTC, LLC
Attn: Kody Green
360 North 700 West, Suite G
North Salt Lake, Utah 84054

Parcel Nos.: 08-087-0162
08-087-0182
08-087-0183

NONEXCLUSIVE SEWER LINE EASEMENT AGREEMENT

THIS NONEXCLUSIVE SEWER LINE EASEMENT AGREEMENT (this "Agreement") is made as of July 1, 2017 by and between DAVIS COMMUNITY HOUSING AUTHORITY (formerly known as DAVIS COUNTY HOUSING AUTHORITY), a Utah non-profit corporation ("Grantor"), and STAY FTC, LLC, a Utah limited liability company ("Stay FTC").

RECITALS

A. Stay FTC is fee simple owner of certain real property located in Davis County, Utah more particularly described on *Exhibit "A"* attached hereto (the "*Stay FTC Property*").

B. Grantor is the fee simple owner of certain real property Davis County, Utah more particularly described on *Exhibit "B"* attached hereto, and which property is adjacent to the Stay FTC Property (the "*Grantor Property*").

C. Grantor has agreed to grant to Stay FTC a nonexclusive perpetual easement and right-of-way over, across and under the portion of the Grantor Property lying within a strip thirty (30) feet wide, said strip extending fifteen (15) feet on each side of and lying parallel and adjacent to a line of reference and projection thereof, more particularly described in *Exhibit "C"* attached hereto and as generally and approximately depicted in *Exhibit "D"* (the "*Easement Area*").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the sum of Ten Dollars paid by Stay FTC to Grantor, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Grantor and Stay FTC hereby agree as follows:

1. *Grant of Easement.* Subject to the terms and conditions set forth in this Agreement, Grantor hereby grants and conveys to Stay FTC, its successors and assigns, a

perpetual nonexclusive right-of-way and easement, across, under and to the Easement Area for the installation, construction, operation, maintenance, repair, inspection, protection, removal and replacement of sewer pipelines, valves, valve boxes and other sewer transmission and distribution structures and facilities, hereinafter called the "Facilities" (the "Easement"). During periods of construction or repair, Stay FTC and its contractors may use such portion of the Grantor Property along and adjacent to the right-of-way and easement as may be reasonably necessary in connection with the construction or repair of the Facilities. Grantor shall have the right to use the Easement Area, provided that there shall be no unreasonable impairment, restriction or obstruction of the use and enjoyment of the Easement as provided herein or with the discharge or conveyance of sewage through the Facilities, and no buildings, fences, walls, guardrails or other obstructions shall be erected over, across, upon, under or through the Easement Area without Stay FTC's prior written consent.

2. *Obligations of Stay FTC.* Stay FTC shall be solely responsible to install, construct, operate, maintain, repair, inspect, remove and replace, at its sole cost and expense the Facilities. Stay FTC shall maintain all Facilities in good condition and repair in accordance with all applicable laws and regulations. Stay FTC shall be responsible to Grantor for any settling, subsidence, cracking of concrete or asphalt or other damage caused by the Facilities. If Stay FTC fails so to maintain any Facilities, then Grantor shall have the right, but not the obligation, after ten (10) days' written notice to Stay FTC to undertake necessary and reasonable maintenance and repair of such Facilities, and any damage to the Grantor Property. If Grantor performs any such maintenance and repair, Stay FTC shall reimburse Grantor promptly for all reasonable costs and expenses incurred for such maintenance and repair. No statute, law, ordinance or agreement between Stay FTC and any third party shall relieve Stay FTC of its obligations under this Agreement. Without limiting the foregoing, Stay FTC represents and warrants to Grantor that the Facilities and the construction activities will not affect the parcel of real property located to the south of the Grantor Property, commonly referred to as the Quatronix property, nor will the construction activities affect or impede ingress or egress to the Quatronix property. Stay FTC shall indemnify, defend and hold harmless Grantor, its directors and officers from and against any and all liability, loss, claims and expenses (including reasonable attorney's fees) arising from the breach of the warranties set forth herein.

3. *Obligations During Construction by Stay FTC.* Any construction activities related to the installation, construction, operation, maintenance, repair, inspection, protection, removal and replacement of the Facilities shall be performed in a good and workmanlike manner so as to not unreasonably interfere with the ingress, egress or parking on the Grantor Property. All such activities performed by Stay FTC (a) shall be completed within a consecutive nine-day period commencing on a Friday after 7:00 p.m. and concluding on the second following Sunday, and (b) that require that ingress or egress to the Grantor Property be blocked shall take place only on Friday after 7:00 p.m., Saturday or Sunday. The time restrictions set forth in sections (a) and (b) are collectively referred to as the "Time Restrictions". In the event of any breach of the foregoing Time Restrictions by Stay FTC or its contractors, Stay FTC shall pay to Grantor liquidated damages of \$1,000 per day for each day that any such breach occurs or continues. Staging of material and equipment by Stay FTC shall be limited to the Time Restrictions and shall be limited to parking stalls located along the east portion of the Grantor's east parking lot. Stay FTC shall provide Grantor seven (7) days' prior written notice of the commencement of any

construction, maintenance or repair activities that would impact parking on, or ingress to and egress from, the Grantor Property. Promptly after the installation, construction, operation, maintenance, repair, inspection, removal and replacement of any Facilities, Stay FTC shall cause the Easement Area to be restored to a substantially similar or better condition as or than existed immediately prior to the performance of such work, including but not limited to (a) grading the surface area of the Easement Area to approximate its original contour; (b) replacing any curb, gutters, asphalt, concrete or other hardscape; (c) repairing or replacing any damaged sprinklers or other utilities; and (d) revegetating the Easement Area with new plant material substantially equivalent to any plant material damaged or removed. In addition, Stay FTC shall promptly repair or replace, at its sole cost and expense, any other property or facilities of Grantor damaged or injured by the acts or omissions of Stay FTC or its contractors, in connection with this Easement.

4. *Liens.* Stay FTC shall not permit any lien or claim of mechanics or laborers to be filed against the Easement Area, or any part or parts thereof, for any work, labor or materials furnished, alleged to have been furnished or to be furnished pursuant to any agreement by Stay FTC or its contractors, related to the Easement Area. Within thirty (30) days after Stay FTC receives notice of the filing or recording of any such lien, Stay FTC shall cause the same to be paid and discharged of record.

5. *Indemnity.* Stay FTC shall indemnify, defend and hold harmless Grantor, its members, directors, officers, agents, contractors and employees, free from or against any and all liability, loss, damage, claims, costs and expenses (including reasonable attorneys' fees) for injury to person or death or property damage to the extent arising from the breach of this Agreement by Stay FTC, or the use of the Easement Area by Stay FTC, its agents, employees, representatives, contractors, tenants, licensees or invitees, except to the extent arising directly and solely from the willful or grossly negligent acts of Grantor. Stay FTC shall cause all liability insurance policies carried by Stay FTC to designate Grantor as an additional insured with respect to Stay FTC's use of the Easement and the Easement Area. Upon request by Grantor, Stay FTC shall deliver to Grantor copies of such liability insurance policies or certificates thereof.

6. *Costs and Expenses.* In the event of a breach in any of the covenants or agreements contained herein by Stay FTC or the Grantor, the breaching party shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided by the laws of the State of Utah, whether such remedies are pursued by filing suit or otherwise.

7. *Covenants to Run With the Land.* This Agreement shall be appurtenant to the Stay FTC Property and shall constitute a covenant running with the land, as a benefit to and burden upon the Easement Area and the Stay FTC Property as the case may be, and shall be binding upon the Grantor and Stay FTC, their successors, assigns, and any person acquiring or otherwise owning an interest in the Easement Area or the Stay FTC Property. The rights and obligations conferred or imposed upon Grantor and Stay FTC pursuant to this Agreement shall not be transferred or assigned to any other party except together with the transfer or conveyance of the respective property subject to the terms and conditions of this Agreement. Any party transferring its interest in such property shall be released from all further obligations under this

Agreement arising from and after the effective date of such transfer or conveyance. Nothing contained herein shall, however, be construed to release either party from obligations accruing prior to the date of such transfer or conveyance.

8. *Not a Public Dedication.* Nothing contained in this Agreement shall be deemed to be a gift or a dedication of any portion of the Easement Area, or any portion thereof, to or for the general public or for any public purpose whatsoever, it being the intent of the parties that this Agreement be strictly limited to and for the purposes expressed herein.

9. *No Third Party Beneficiaries.* This Agreement is not intended, nor shall it be construed, to create any third party beneficiary rights in or for the benefit of any person who is not a party hereto, except as otherwise expressly provided to the contrary in this Agreement.

10. *No Waiver.* Failure of a party hereto to insist upon strict performance of any provisions hereof shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of this instrument shall be deemed to have been waived unless such waiver is in writing and signed by the party alleged to have waived its rights.

11. *Taxes.* Stay FTC shall pay when due all taxes and assessments levied against the Facilities or any other improvements built by Stay FTC on the Easement Area, all taxes on personal property brought on the Easement Area by Stay FTC, and any taxes that may become due because of the conveyance of this Easement. Stay FTC shall indemnify and hold Grantor harmless from any liability for the payment of such taxes.

12. *Duration and Amendment.* This Agreement and the Easement shall be perpetual. Notwithstanding anything within this Agreement to the contrary, the parties may amend or terminate this Agreement only by a written notice of amendment or termination executed by the parties, and recorded in the office of the Davis County Recorder. Notwithstanding any other term or condition contained herein to the contrary, no breach or alleged breach of any provision of this Agreement shall under any circumstance cause a forfeiture or reversion of title to, or any interest in, the Easements, the Easement Area, or any property interest arising hereunder.

13. *Recitals and Exhibits.* The Recitals set forth above shall be binding upon the parties to this Agreement. All exhibits are incorporated herein by reference.

14. *Counterparts.* This Agreement may be executed in one or more counterparts which together shall constitute the Agreement.

15. *Authority.* The undersigned represent and warrant that each of them has been duly authorized by all necessary action, as appropriate, to execute this Agreement for and on behalf of the respective parties. The undersigned represent and warrant that this Agreement, when fully executed, shall constitute a legal, valid, and binding agreement for each of the respective parties, enforceable in accordance with its terms.

16. *Enforcement.* Each party shall have the full power and authority to enforce compliance with this Agreement in any manner provided for in law or in equity, including

without limitation, the right to bring an action for damages, to enjoin the violation, or specifically enforce the provisions of this Agreement, and if that party prevails in such action, it shall recover as part of its costs all reasonable attorneys' fees, court costs and expert witness fees.

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

18. *Applicable Law.* This Agreement shall be governed by and construed in accordance with and interpreted under the laws of the State of Utah.

19. *Attorney's Fees.* As further consideration for the grant of the nonexclusive perpetual easement and right-of-way described herein, Stay FTC shall pay to Grantor the sum of \$2,420.00 representing Grantor's attorney's fees. Said fees shall be paid to Grantor concurrent with the execution of this Agreement and prior to recordation.

[Signature Page to Follow]

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

GRANTOR:

DAVIS COMMUNITY HOUSING AUTHORITY,
a Utah non-profit corporation

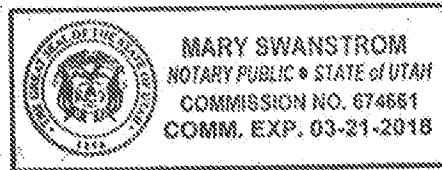
By: Jan Winborg
Jan Winborg, Director

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 17th day of July, 2017, by Jan Winborg, the Director of the DAVIS COMMUNITY HOUSING AUTHORITY, a Utah non-profit corporation.

Mary Swanstrom
NOTARY PUBLIC
Residing at: _____

My Commission Expires:
3/21/2018



GRANTEE:

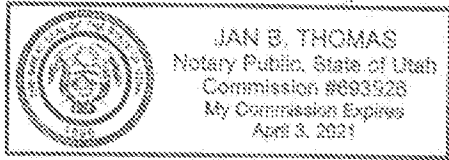
STAY FTC, LLC, a Utah limited liability company

By: Stay Capital, LLC, its manager

By: [Signature]
Thomas D. Stuart, manager

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 27 day of June, 2017, by Thomas D. Stuart, the manager of Stay Capital, LLC, the manager of STAY FTC, LLC, a Utah limited liability company.



[Signature]
NOTARY PUBLIC
Residing at: Davis County

My Commission Expires:
4/3/21

EXHIBIT "A"

LEGAL DESCRIPTION OF STAY FIC PROPERTY

A part of the Southeast Quarter of Section 24, Township 3 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Farmington, Davis County, Utah: Beginning at a point on the South Line of Grantor's Property located 61.00 feet South 89°52'10" West from the Southeasterly Corner thereof; said Southeasterly Corner is described of record as being 1189.14 feet North 0°07'50" West along the Section Line, 246.79 feet South 89°52'10" West, and 266.00 feet South from the Southeast Corner of said Section 24; said point of beginning is located 82.09 feet South 89°52'10" West along said South Line from an existing nail monumenting said South Line as it exists on the ground; said point of beginning is located 923.04 feet North 0°07'50" West along the Section Line and 308.28 feet South 89°52'10" West to and along said South Line from the Southeast Corner of said Section 24; and running thence South 89°52'10" West 268.00 feet along said South Line; thence North 264.16 feet; thence North 89°27'20" East 161.37 feet; thence South 32.43 feet; thence East 106.64 feet; thence South 232.65 feet to the point of beginning.

Together with the appurtenant rights created by Reciprocal Agreement, recorded April 22, 1996 as Entry No. 1242759 in Book 1992 at Page 1463 and Declaration of Reciprocal Easements and Covenants, recorded November 30, 2000 as Entry No. 1626875 in Book 2720 at Page 1112 of Official Records.

Situated in DAVIS County
Parcel Identification Number: 08-087-0123

EXHIBIT "B"

LEGAL DESCRIPTION OF GRANTOR PROPERTY

Beginning at a point which lies North 0D07'50" West along the section line (basis of bearings); 610.92 feet (North 0D07'50" West 765 feet, more or less, record reads); and South 89D49'00" West 24.15 feet from the Southeast corner of Section 24, Township 3 North, Range 1 West, Salt Lake Base and Meridian (18 feet East more or less of the Southeast corner of Section 24, Township 3 North, Range 1 West, Salt Lake Base and Meridian); said point lies South 89D49'00" West 47 feet from the Right of Way at State Engineers Station 21+ 53.99 for Walker Lane and Station 46+74.22 for W-1 Line; and running thence South 0D11'00" East, 20.06 feet to a point which lies on a line which bears South 89D40'30" West, from a point which lies North 0D07'40" West, 591.00 feet and North 89D02'10" East 25.00 feet from the aforesaid Southeast corner of Section 24 (South 0D11' East 20.06 feet record reads); thence South 89D40'30" West 204.27 feet (South 89D40'30" West 204.27 feet record reads); thence North 0D07'50" West 283.00 feet (North 0D07'50" West 283.58 feet record reads); thence North 89D52'10" East 226.00 feet (due East 253.9 feet record reads); thence South 0D07'50" East 192.33 feet (due South 108 feet record reads); thence South 17D09'06" West 73.22 feet (South 17D09'06" West 161.3 feet record reads); to the point of beginning.

TOGETHER WITH AND SUBJECT TO A RIGHT-OF-WAY over that part of said property South and East of a point 645.93 feet North 0D7'50" West and 50.0 feet West of the Southeast corner of said Section 24.

TOGETHER WITH an Easement for the installation and maintenance of a storm drain, over the following: Beginning at a point North 0D07'50" West 590.92 feet along the Section line and South 89D40'30" West 228.40 feet from the Southeast corner of said Section 24, and running thence South 89D40'30" West 60.0 feet; thence North 0D19'30" West 20.0 feet; thence North 89D40'30" East 60.07 feet; thence South 0D07'50" East 20.0 feet to the point of beginning.

#08-087-0099

(Property Address: 352 South 200 West, Farmington, Utah 84025)

EXHIBIT "C"

LEGAL DESCRIPTION OF EASEMENT AREA

A 30.0 foot wide easement being 15.0 feet each side of the following described centerline:

A part of the Southeast Quarter of Section 24, Township 3 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Farmington, Davis County, Utah:

Beginning at a point 914.17 feet North $0^{\circ}07'50''$ West along the Section Line; and 18.91 feet South $89^{\circ}52'10''$ West from the Southeast Corner of said Section 24; and running thence South $0^{\circ}29'11''$ East 268.29 feet; thence South $21^{\circ}14'13''$ West 59.25 feet to the end point of this easement centerline on the South Line of Grantor's property.

NOTE:

The sidelines of the above described easement are to be lengthened or shortened to exactly match the South Line of Grantor Property.

EXHIBIT "D"

GENERAL AND APPROXIMATE DEPICTION OF THE EASEMENT AREA

(See attached)

