



W3021933

When recorded, please return to:

Haven Cove Townhomes, LLC
2637 N 400 E #127
North Ogden, UT 84414

E# 3021933 PG 1 OF 10
Leann H. Kilts, WEBER COUNTY RECORDER
11-Dec-19 1139 AM FEE \$40.00 DEP TH
REC FOR: MOUNTAIN VIEW TITLE - OGDEN
ELECTRONICALLY RECORDED

RECIPROCAL CROSS ACCESS AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS RECIPROCAL CROSS ACCESS AND TEMPORARY CONSTRUCTION EASEMENT (this "Agreement") is made and executed effective as of the 11 day of December, 2019, by and between Haven Cove Phase 1, LLC, a Utah limited liability company ("Phase 1 Owner"), and Haven Cove Townhomes, LLC, a Utah limited liability company ("Phase 2 and 3 Owner"). Phase 1 Owner and Phase 2 and 3 Owner may be referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

(A) Phase 1 Owner is the owner of record of certain real property located in Weber County, Utah, as more particularly described in **Exhibit A** attached hereto and incorporated herein by reference (the "Phase 1 Property").

(B) Phase 2 and 3 Owner is the owner of record of certain real property located adjacent to the Phase 1 Property as more particularly described in **Exhibit B** attached hereto and incorporated herein by reference (the "Phase 2 Property" and together with the Phase 1 Property, the "Properties"; the Properties may be referred to herein individually as a "Property").

(C) The Parties intend to develop the Properties as a residential townhome project to be known as "Haven Cove Townhomes" (the "Project") and that will include individual townhomes that are rented/leased. The Project has been, and is being, developed in phases, currently including Phase 1, Phase 2 and Phase 3.

(D) The Project will include access roads that provide vehicular and pedestrian access to the Properties (the "Access Roads"), and certain common amenities, including without limitation a clubhouse, exercise facility, laundry, open space, playground equipment, visitor parking, sidewalks and other similar amenities, all for the use and enjoyment of the owners, resident, tenants and guests of the townhomes in the Project (collectively, the "Common Amenities").

(E) The Access Roads and Common Amenities will be located on those portions of the Properties as generally described and depicted in **Exhibit C** attached hereto and incorporated herein by reference (the "Easement Area").

(F) The Parties desire to grant and convey reciprocal, non-exclusive easements and access rights on, over and across the Easement Area for the beneficial use and enjoyment of the Parties, their successors, assigns, residents, invitees and guests, and to establish and set forth their respective maintenance obligations related to the same.

AGREEMENT

NOW, THEREFORE, in consideration of these purposes and other good and valuable consideration, the Parties agrees as follows:

1. Recitals. The foregoing Recitals are true and correct and are incorporated into this Agreement by this reference as if fully set forth herein.

2. Grant of Easement. Subject to the terms and conditions of this Agreement, the Parties hereby grant and convey to each other, their successors, assigns, residents, invitees and guests a non-exclusive, perpetual, easement for (i) pedestrian and vehicular ingress and egress and parking upon, over and across the Access Roads situated in those portions of the Easement Area located on each Party's respective Property, including any roadways, drives, parking areas, pathways or sidewalks, (ii) pedestrian ingress and egress to the Common Amenities via the Easement Area, and (iii) the right to use the Common Amenities subject to the terms and conditions of this Agreement and any rules and regulations applicable to the Properties (each an "Easement" and collectively the "Easements"). The Easements shall permit unobstructed pedestrian and vehicular ingress, egress, access and parking over, across and upon the Easement Area for the benefit of the Properties, the owners thereof and their respective successors, assigns, residents, invitees and guests.

3. Temporary Construction Easement. The Parties hereby grant to each other, their successors, assigns, agents, contractors, and employees, a temporary, non-exclusive easement (the "Temporary Construction Easement") over, upon and across the Easement Area for the purpose of constructing the Access Roads and Common Amenities pursuant to the plans and specifications approved by the Parties and all applicable governmental authorities. The Temporary Construction Easement shall automatically terminate upon completion of the Access Roads and Common Amenities.

4. Maintenance and Repairs. Unless the Parties agree to the contrary, each Party, including its successors and assigns, shall be responsible, at its sole cost and expense, for the repair and upkeep of its Property, including that portion of the Access Roads (including any related utility located in the same) and/or Common Amenities located on its Property, which repair and upkeep shall be performed in a workmanlike, diligent and efficient manner and shall include maintenance of paved surfaces in a level and smooth condition, free of potholes, with the type of material as originally used or a substitute equal in quality; plowing of snow and ice from paved surfaces and sidewalks; and restriping as required to keep the same clearly visible. All such maintenance, repair and replacement shall be accomplished in a first-class, lien-free manner in accordance with standards pursuant to similarly situated property of similar size maintained in Weber County, Utah,

and consistent with any covenants, conditions and restrictions applicable to the Properties. If either Party damages the Access Roads and/or Common Amenities, that Party agrees to promptly repair the same at its expense to the condition existing immediately prior to the damage. In the event the Parties agree that one Party, specifically, will be responsible for the routine maintenance, upkeep and repair of the Access Roads and/or Common Amenities, the Parties (or their successors and/or assigns) will share the costs for such maintenance, upkeep and repair on a prorata basis based upon the number of completed units in the Project. In the event a Party fails to maintain the Access Roads (including any related utility located in the same) and/or Common Amenities located on its Property as required herein, or fails to reimburse a Party who the Parties mutually agree will be solely responsible for the same, a Party, including a lender or third party with a secured interest against the Project, may, following thirty (30) days written notice to the defaulting Party, but without obligation to do so, enter upon the Properties to perform such necessary maintenance. Further, if such action is needed, such Party shall be entitled to reimbursement of the necessary and reasonable costs incurred in performing said maintenance.

5. Rules. The Parties may mutually establish reasonable rules and restrictions with regard to the time, place, and manner of access to and use of the Common Amenities. Neither the Parties nor their successors, assigns, residents, invitees and guests can acquire any right, title or interest in and to the Easement Area by adverse possession, prescriptive easement or other legal theories.

6. Insurance. Each Party shall maintain comprehensive general liability insurance, including contractual liability coverage, naming the other Party as an additional insured and providing coverage with a combined bodily injury, death and property damage limit of Two Million and 00/100 Dollars (\$2,000,000.00) or more per occurrence. Each Party shall provide the other with a certificate of insurance, which certificate shall provide that the coverage referred to therein shall not be modified or cancelled without at least thirty (30) days written notice to each named insured thereunder.

7. Damage or Condemnation.

a. Damage. In the event that any portion of the Easement Area is destroyed or damaged by fire, casualty or force majeure, the Party's Property upon which the Easement Area is so damaged shall, at its sole cost and expense, forthwith repair and restore such area to the condition that existed immediately prior to such damage.

b. Condemnation. In the event that any part of a Property is condemned, the owner of the affected Property, at its sole cost and expense, shall restore such area as much as practicable to provide the same approximate configuration, size and location of the drives, driveways and sidewalks, together with existing curb cuts to adjacent roadways existing prior to the condemnation. Unless the owner of the affected Property has otherwise provided for the cost of restoration, any award on account of a condemnation on the affected Property first shall be used in the restoration of the same, and any claim to the award made by a Property owner, or its tenants or licensees hereunder shall be expressly subject and subordinate to its use in such restoration. The term "condemnation" as used herein shall include all conveyances made in anticipation or lieu of

an actual taking. Nothing in this Section shall be construed to give any Party an interest in any award or payment made to the other Party in connection with any exercise of the power of eminent domain or any transfer in lieu thereof affecting said Party's Property or giving the public or any government any rights in said Property except as may be provided by applicable law.

8. Remedies and Enforcement. In the event of a default or threatened default by any Party hereunder, and/or any such Party's respective successors and/or assigns, of any of the terms, easements, covenants, conditions or restrictions hereof, the non-defaulting Party shall be entitled to pursue all available legal and equitable remedies from the consequences of such breach, including but not limited to specific performance. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity. Notwithstanding the foregoing, no default hereunder shall entitle either Party to cancel, rescind, or otherwise terminate this Agreement. If this Agreement or any provision hereof shall be enforced by an attorney retained by a Party, whether by suit or otherwise, the reasonable fees and costs of the attorney for the prevailing Party shall be paid by the losing Party, including fees and costs incurred upon appeal or in bankruptcy court.

9. Indemnification. Each Party (the "Indemnifying Party") agrees to indemnify, release and defend, with counsel of the other Party's choice, and hold the other Party and its employees, officers, divisions, subsidiaries, partners, members and affiliated companies and entities and its and their employees, officers, shareholders, members, directors, agents, representatives, and professional consultants and its and their respective successors and assigns (collectively, the "Indemnitees") harmless from and against any loss, damage, injury, accident, fire, or other casualty, liability, claim, cost, or expense (including, but not limited to, reasonable attorneys' fees) of any kind or character to any person or property, including the property of the Indemnitees (collectively the "Claims", or a "Claim") from or by any unaffiliated third party or the Indemnifying Party, arising from or relating to (i) any use of the Easement Area, the other Party's Property, and/or adjacent areas by the Indemnifying Party, (ii) any act or omission of Indemnifying Party, (iii) any bodily injury, property damage, accident, fire or other casualty to or involving Indemnifying Party and its property on the Easement Area and/or adjacent areas, and (iv) any enforcement by the other Party of any provision of this Agreement and any cost of removing the Indemnifying Party's employees or its property or equipment from the Easement Area or restoring the same as provided herein; provided, however, that the foregoing indemnity shall not apply to the extent any such Claim is ultimately established by a court of competent jurisdiction to have been caused solely by gross negligence or willful misconduct of the Indemnitees. The terms and conditions of this indemnification provision shall remain effective, notwithstanding the expiration or termination of this Agreement.

10. Covenant Running with the Land. The provisions of this Agreement shall run with the land and shall apply to, bind and inure to the benefit of the Parties their successors and assigns.

11. Modification. This Agreement may not be amended, expanded or modified except by a further agreement in writing and in recordable form by the Parties or their successors or assigns.

12. Recordation. This Agreement shall be recorded in the Weber County Recorder's Office.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Utah.

14. No Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement be strictly limited to and for the purposes herein expressed.

[Signatures and Acknowledgments Follow]

EXHIBIT "A"

(Legal Description of the Phase 1 Property)

SOUTH PARCEL OF LOT 1 BOUNDARY DESCRIPTION

DB

A PART OF THE WEST HAVEN COVE SUBDIVISION PHASE 2 RECORDED AS ENTRY NO. 2968437 IN THE FILES OF THE WEBER COUNTY RECORDER BEING SITUATED IN THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 6 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT THE SOUTHWEST CORNER OF SAID WEST HAVEN COVE SUBDIVISION PHASE 2 AND RUNNING THENCE NORTH 00°00'12" EAST 218.83 FEET ALONG THE WEST BOUNDARY LINE OF SAID WEST HAVEN COVE SUBDIVISION PHASE 2; THENCE NORTH 90°00'00" EAST 90.37 FEET; THENCE NORTH 04°29'06" EAST 16.11 FEET; THENCE NORTH 90°00'00" EAST 187.39 FEET; THENCE SOUTH 19°30'20" EAST 3.00 FEET; THENCE NORTH 90°00'00" EAST 115.72 FEET TO THE EAST BOUNDARY LINE OF SAID WEST HAVEN COVE SUBDIVISION PHASE 2; THENCE ALONG THE BOUNDARY LINE OF SAID WEST HAVEN COVE SUBDIVISION PHASE 2 THE FOLLOWING SEVEN (7) COURSES; (1) SOUTH 00°25'29" WEST 337.50 FEET; (2) SOUTH 00°07'55" WEST 42.30 FEET; (3) NORTH 89°05'25" WEST 130.20 FEET; (4) SOUTH 00°54'35" WEST 79.48 FEET; (5) NORTH 54°43'52" WEST 121.70 FEET; (6) NORTHWESTERLY TO THE RIGHT ALONG THE ARC OF A 220.00 FOOT RADIUS CURVE, A DISTANCE OF 34.88 FEET, CHORD BEARS NORTH 50°11'20" WEST 34.85 FEET, HAVING A CENTRAL ANGLE OF 09°05'05"; AND (7) NORTH 45°38'48" WEST 189.61 FEET TO THE POINT OF BEGINNING. CONTAINING 3.262 ACRES.

15-682-0001 - 0005 NP
15-682-0018 - 0023 NP
15-682-0029 + 0030 NP

EXHIBIT "B"

(Legal Description of the Phase 2 and 3 Property)

NORTH PARCEL OF LOT 1 BOUNDARY DESCRIPTION

A PART OF THE WEST HAVEN COVE SUBDIVISION PHASE 2 RECORDED AS ENTRY NO. 2968437 IN THE FILES OF THE WEBER COUNTY RECORDER BEING SITUATED IN THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 6 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT LOCATED 218.83 FEET NORTH 00°00'12" EAST ALONG THE WEST BOUNDARY LINE OF SAID WEST HAVEN COVE SUBDIVISION PHASE 2 FROM THE SOUTHWEST CORNER OF SAID WEST HAVEN COVE SUBDIVISION PHASE 2;

RUNNING THENCE ALONG THE BOUNDARY LINE OF SAID WEST HAVEN COVE SUBDIVISION PHASE 2 THE FOLLOWING NINE (9) COURSES; (1) NORTH 00°00'12" EAST 454.13 FEET; (2) SOUTH 86°10'41" EAST 47.42 FEET; (3) SOUTH 83°21'28" EAST 80.38 FEET; (4) SOUTH 82°34'55" EAST 276.86 FEET; (5) SOUTH 85°20'32" EAST 37.29 FEET; (6) SOUTH 38°52'37" WEST 38.64 FEET; (7) SOUTH 18°42'18" WEST 31.42 FEET; (8) SOUTH 03°59'22" WEST 102.54 FEET; AND (9) SOUTH 00°25'29" WEST 227.54 FEET; THENCE NORTH 90°00'00" WEST 115.72 FEET; THENCE NORTH 19°30'20" WEST 3.00 FEET; THENCE NORTH 90°00'00" WEST 187.39 FEET; THENCE SOUTH 04°29'06" WEST 16.11 FEET; THENCE NORTH 90°00'00" WEST 90.37 FEET TO THE POINT OF BEGINNING. CONTAINING 3.869 ACRES.

HAVEN COVE - SOUTH PHASE 17-680-0002 NP

BEING LOT 2 OF THE WEST HAVEN COVE SUBDIVISION FILED FOR RECORD UNDER ENTRY NO. 2963969 ON FEBRUARY 4, 2019 IN WEST HAVEN CITY, WEBER COUNTY, STATE OF UTAH.



- 17-682-0006 - 0017 NP
- 17-682-0024 - 0026 NP
- 13-682-0031 + 0032 NP

EXHIBIT "C"

(Description of the Easement Area)

All of the common space, common amenities, and private streets in West Haven Cove Subdivision, including in subsequent phases of the same, as may be shown in any plat filed for record in West Haven City, Weber County, State of Utah, or that may exist for the common use and enjoyment of the Parties, their successors, assigns, residents, invitees and guests.

EXHIBIT "C"

(Depiction of the Easement Area)

