

WHEN RECORDED RETURN TO:

Urban 9th LLC
825 N 300 W #N141
Salt Lake City, UT 84103
Attention: Brad Boardman

13524158
1/6/2021 11:49:00 AM \$40.00
Book - 11094 Pg - 3294-3303
RASHELLE HOBBS
Recorder, Salt Lake County, UT
RAY QUINNEY & NEBEKER
BY: eCASH, DEPUTY - EF 10 P.

Parcel Nos. 15-12-358-007, 15-12-258-008, and 15-12-258-009

TEMPORARY EASEMENT AGREEMENT

THIS TEMPORARY EASEMENT AGREEMENT ("**Agreement**"), executed by and between URBAN 9TH LLC, a Utah limited liability company ("**Urban**"), and ADC WASHINGTON SLC, LLC, a Utah limited liability company ("**ADC**"). Urban and ADC are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**."

PRELIMINARY STATEMENTS:

The following preliminary statements are a material part of this Amendment and are incorporated herein by reference

A. Urban owns certain real property identified as Parcel No. 15-12-358-007 in the records of the Salt Lake County Recorder's Office, located at or about 927 S. Washington St., Salt Lake City, Utah 84101, and more particularly described and in Exhibit "A" attached hereto and made a part hereof (the "**Urban Property**"). Urban plans to develop and construct a multifamily housing project on the Urban Property (the "**Urban Project**").

B. ADC owns certain real property identified as Parcel Nos. 15-12-258-008 and 15-12-258-009 in the records of the Salt Lake County Recorder's Office, located on or about 931 S. and 933 S. Washington St., Salt Lake City, Utah 84101, and more particularly described in Exhibit "B" attached hereto and made a part hereof (the "**ADC Property**"). The Urban Property adjoins the ADC Property. ADC plans to develop and construct a multifamily housing project on the ADC Property (the "**ADC Project**").

C. During the construction phase of the ADC Project, ADC needs to access portions of the Urban Property for limited purposes, as detailed more fully in the Agreement below.

D. Similarly, during the construction phase of the Urban Project, Urban needs to access portions of the ADC Property for limited purposes, as detailed more fully in the Agreement below.

E. Urban and ADC are willing to grant limited temporary access to a portion their respective properties, subject to the terms, provisions, and conditions outlined below, and therefore desire to enter into this Agreement to facilitate development and construction on the Urban Property and the ADC Property.

AGREEMENT:

That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Grant of Temporary Easement over the Urban Property. Subject to the terms and conditions set forth in this Agreement, Urban hereby grants to ADC, for the benefit of ADC and ADC's principal contractor, JCTM Investments, LLC d/b/a JCTM Builders ("JCTM"), and ADC's other contractors, sub-contractors, employees, agents, successors, and assigns (collectively, the "ADC Permittees") a temporary easement in, over, across and upon the portions of the Urban Property necessary (the "ADC Easement Area") to allow the ADC Permittees to (1) access and deliver construction materials and supplies to the ADC Property, (2) place and access scaffolding equipment within reasonable proximity of the shared boundary between the Urban Property and the ADC Property, (3) operate a crane which may from time to time occupy a portion of the air space above the Urban Property, and (4) excavate of a portion of the Urban Property as may be reasonably necessary to access and construct the foundation (including but not limited to foundation walls and footings) of ADC's building upon the ADC's Property so long as such work does not materially damage any structures or improvements constructed on the Urban Property. Urban understands and agrees that portions of the scaffolding equipment may be placed on or above the Urban property. ADC shall have non-exclusive access to the portions of the Urban Property necessary to make use of this temporary easement during the ADC Term (defined in Section 3 below). ADC agrees that neither it nor the ADC Permittees shall park vehicles at or store materials on the Urban Property

2. Grant of Temporary Easement over the ADC Property. Subject to the terms and conditions set forth in this Agreement, ADC hereby grants to Urban, for the benefit of Urban, and Urban's contractors, sub-contractors, employees, agents, successors, and assigns (collectively, the "Urban Permittees") a temporary easement in, over, across and upon the portions of the ADC Property necessary (the "Urban Easement Area") to allow the Urban Permittees to (1) access and deliver construction materials and supplies to the Urban Property, (2) place and access scaffolding equipment within reasonable proximity of the shared boundary between the ADC Property and the Urban Property, (3) operate a crane which may from time to time occupy a portion of the air space above the ADC Property, and (4) excavate of a portion of the ADC Property as may be reasonably necessary to access and construct the foundation (including but not limited to foundation walls and footings) of Urban's building upon the Urban's Property so long as such work does not materially damage any structures or improvements constructed on the ADC Property. ADC understands and agrees that portions of the scaffolding equipment may be placed on or above the ADC property. Urban shall have non-exclusive access to the portions of the ADC Property necessary to make use of this temporary easement during the Urban Term (defined in Section 4 below). Urban agrees that neither it nor the Urban Permittees shall park vehicles at or store materials on the ADC Property.

3. ADC Term. The temporary easement granted to ADC over the ADC Easement Area shall expire upon the earlier of the date (i) that ADC or its successor in interest receives a

Certificate of Occupancy for the ADC Project from Salt Lake City, or (ii) identified by Urban in a written notice to be delivered by Urban to ADC of Urban's scheduled date on which it anticipates commencing construction and development of the Urban Project (the "Construction Commencement Date"), provided that such Construction Commencement Date shall not be earlier than thirty (30) days following the date of such written notice from Urban.

4. Urban Term. The temporary easement granted to Urban over the ADC Property shall expire on the date that Urban or its successor in interest receives a Certificate of Occupancy for the Urban Project from Salt Lake City.

5. Maintenance of the ADC Easement Area. For the duration of the ADC Term, ADC shall maintain the ADC Easement Area in good order and condition (subject to reasonable wear and tear and unavoidable damage resulting from the use of the ADC Easement Area, which damage shall be repaired and remediated prior to the expiration of the ADC Term).

6. Restoration of the Urban Property. Upon completion of the ADC Term, ADC shall, at ADC's sole cost and expense, promptly repair any damage to the ADC Easement Area or other Urban Property caused by ADC and/or the ADC Permittees to a condition substantially similar to that existing immediately prior to the execution of this Agreement. ADC's responsibilities shall also include, but not be limited to, leaving the ADC Easement Area in a condition which is clean, free of debris and hazards which may be caused by ADC's entry upon and crossing over the ADC Easement Area and free of liens caused by ADC's and/or the ADC Permittees' activities. In the event ADC needs to perform any maintenance, repair, or restoration work on any portion of the Urban Property, ADC shall use reasonable efforts to minimize any interference or disruption to Urban's or its tenant's use and occupancy of the Urban Property.

7. Maintenance of the Urban Easement Area. For the duration of the Urban Term, Urban shall maintain the Urban Easement Area in good order and condition (subject to reasonable wear and tear and unavoidable damage resulting from the use of the Urban Easement Area, which damage shall be repaired and remediated prior to the expiration of the Urban Term).

8. Restoration of the ADC Property. Upon completion of the Urban Term, Urban shall, at Urban's sole cost and expense, promptly repair any damage to the Urban Easement Area or other ADC Property caused by Urban and/or the Urban Permittees to a condition substantially similar to that existing immediately prior to the execution of this Agreement. Urban's responsibilities shall also include, but not be limited to, leaving the Urban Easement Area in a condition which is clean, free of debris and hazards which may be caused by Urban's entry upon and crossing over the Urban Easement Area and free of liens caused by Urban's and/or the Urban Permittees' activities. In the event Urban needs to perform any maintenance, repair, or restoration work on any portion of the ADC Property, Urban shall use reasonable efforts to minimize any interference or disruption to ADC's or its tenant's use and occupancy of the ADC Property.

9. Condition of the Urban and ADC Property. Urban accepts the Urban Easement Area and all aspects thereof in "AS IS," "WHERE IS" condition, without warranties, either express or implied, "WITH ALL FAULTS." ADC accepts the ADC Easement Area and all

aspects thereof in "AS IS," "WHERE IS" condition, without warranties, either express or implied, "WITH ALL FAULTS."

10. Liens on the Urban Property. ADC shall keep the Urban Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under ADC, and shall indemnify, hold harmless and agree to defend Urban from any liens that may be placed on the Urban Property to the extent arising from any work performed, materials furnished or obligations incurred by, through, for, or under ADC or any of its Permittees.

11. Liens on the ADC Property. Urban shall keep the ADC Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under Urban, and shall indemnify, hold harmless and agree to defend ADC from any liens that may be placed on the ADC Property to the extent arising from any work performed, materials furnished or obligations incurred by, through, for, or under Urban or any of its Permittees.

12. Indemnification of Urban. ADC shall indemnify, defend and hold Urban and Urban's agents, employees, and contractors (collectively, "**Urban Indemnitees**") harmless from and against any loss, damage, injury, accident, liability, claim, cost or expense (including, but not limited to, reasonable attorneys' fees) of any kind or character arising from injury or death to any person or damage to property (collectively, "**Claims**" or a "**Claim**"), including the property of the Urban Indemnitees and the Urban Property, made by any unaffiliated third party, ADC, and the ADC Permittees, arising during the ADC Term from or relating to ADC's and its Permittees' use of the ADC Easement Area; (ii) the failure of ADC to maintain the ADC Easement Area in a good working condition and repair while ADC is accessing or using the ADC Easement Area for ADC's construction activities; and, (iv) material breach by ADC of its fundamental obligations under this Agreement, 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 by the actions or omissions of the Urban Indemnitees.

13. Indemnification of ADC. Urban shall indemnify, defend and hold ADC and ADC's agents, employees, and contractors (collectively, "**ADC Indemnitees**") harmless from and against any Claims, including the property of the ADC Indemnitees and the ADC Property, made by any unaffiliated third party, Urban, and the Urban Permittees, arising during the Urban Term from or relating to Urban's and its Permittees' use of the Urban Easement Area; (ii) the failure of Urban to maintain the Urban Easement Area in a good working condition and repair while Urban is accessing or using the Urban Easement Area for Urban's construction activities; and, (iv) material breach by Urban of its fundamental obligations under this Agreement, 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 by the actions or omissions of the ADC Indemnitees.

14. Insurance. Prior to commencing any work within or otherwise exercising any rights with respect to the temporary easements granted herein, Urban and ADC shall first obtain insurance policies, and provide certificates of insurance to one another, demonstrating public

liability insurance in an amount of not less than \$1,000,000 per incident and \$2,000,000 in the aggregate, which policy shall also name Urban (in the case of ADC's insurance) and ADC (in the case of Urban's insurance) as an additional insured.

15. No Dedication to the Public. Nothing contained herein will be deemed to constitute any dedication to the public or for public use.

16. Runs With The Land; Right to Assign. The temporary easements herein granted and the agreements herein contained in connection therewith will all be easements and covenants running with the Urban Property and ADC Property and will inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns, including, without limitation, all subsequent owners of the Urban and ADC Property. Urban and ADC may not assign this Agreement and all of its rights, duties, and obligations hereunder to any person or party that is not the fee title owner of the Urban Property or the ADC Property.

17. Miscellaneous. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by the Parties hereto. This Agreement may be signed in multiple counterparts, all of which taken together shall constitute one and the same agreement.

18. Cooperation. The Parties agree to execute and deliver any additional documents and to perform any additional acts that either Party may reasonably request or as may be reasonably necessary to effectuate or perform any of the terms or conditions of this Agreement.

19. Recording. Either Party may record this Agreement or notice hereof with the Salt Lake County Recorder.

20. Waiver. No failure by any of the Parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy upon the breach of this Agreement, shall constitute a waiver of any breach of this Agreement.

21. Governing Law. This Agreement will be governed and construed in accordance with Utah law. The Parties agree that any litigation concerning this Agreement shall be resolved in the Third District Court, Salt Lake County, State of Utah.

22. Severability. Each of the provisions of this Agreement is independent of one another. Any provision of this Agreement found to be unenforceable shall be severed from the remaining terms and conditions, and the remainder of the terms and conditions shall be enforced to the full extent allowed in law or equity. Any unenforceable provision of this Agreement shall be re-written by a court or other tribunal interpreting the provision so that it is then enforceable and most closely approximates the intent of the Parties.

23. Attorneys' Fees. In any action to enforce or interpret the provisions of this Agreement, the prevailing Party (as determined by a final, non-appealable judgment) shall be entitled to collect its costs and expenses (including reasonable attorneys' fees). For purposes of this section, an "action" does not require formal initiation of a lawsuit, but instead is to be broadly construed to include any action reasonably required to be taken to enforce or interpret this Agreement as a result of the failure of one Party to fulfill its obligations in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of January 4, 2021

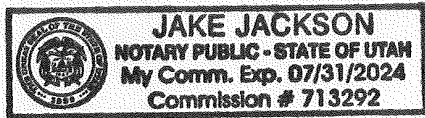
URBAN:

URBAN 9TH LLC,
a Utah limited liability company

By: Michael D. Batt
Name: Michael D. Batt
Its: Manager

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this 4 day of January, 2021, before me Jake Jackson, a notary public, personally appeared Michael D. Batt proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged she executed the same as the manager of URBAN 9TH LLC, a Utah limited liability company.



Jake Jackson
NOTARY PUBLIC

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

ADC:

ADC WASHINGTON SLC, LLC,
a Utah limited liability company

By: [Handwritten Signature]
Name: Jamie Davis
Its: Manager

STATE OF COLORADO)
) :SS
COUNTY OF Adams)

On this 30th day of December, 2020, before me Stefanie Bryant, a notary public, personally appeared Jamie Davis proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same as the Manager of ADC WASHINGTON SLC, LLC, a Utah limited liability company.

[Handwritten Signature]
NOTARY PUBLIC

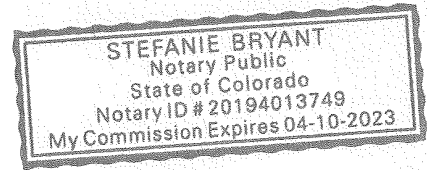


EXHIBIT A

The Urban Property

Lot 17 and the North half of Lot 16, Block 1, HUNTER'S SUBDIVISION, according to the plat thereof, recorded in the office of the Salt Lake County Recorder, State of Utah.

Tax Id. Number: 15-12-258-007 (for reference purposes only)

Together with all improvements and appurtenances, restrictions and reservations of record and those enforceable in law and equity.

SUBJECT TO: Property taxes for the year 2019 and thereafter; covenants, conditions, restrictions and easements apparent or of record; all applicable zoning laws and ordinances.

EXHIBIT A

EXHIBIT B

The ADC Property

The North Half of Lot 13 and all of Lot 14 and 15 and the South Half of Lot 16, in Block 1, HUNTER'S SUBDIVISION of Lots 9 and 10, Block 23, Five Acre Plat "A", Big Field Survey, according to the official plat thereof, recorded in Book B of Plats at Page 90, records of Salt Lake County, State of Utah, said parcel being described more particularly as follows:

Beginning at a point on the west line of Lot 16, Block 1, HUNTER'S SUBDIVISION, as recorded in the office of the Salt Lake County Recorder in Book B of Plats at Page 90, said point being South 0°01'47" East along said west line 12.50 feet from the Northwest Corner of said Lot 16, and running thence North 89°59'55" East 12.50 south of and parallel with the northerly line of said Lot 16 a distance of 152.68 feet to the east line of said Lot 16; thence South 0°01'47" East along the east line of said Lot 16 and the east line of Lots 13, 14 and 15 of said Block 1 a distance of 75.00 feet to a point on the east line of said Lot 13, said point being North 0°01'47" West along said east line 12.50 feet from the Southeast Corner of said Lot 13; thence South 89°59'55" West 12.50 north of and parallel with the south line of said Lot 13 a distance of 152.68 feet to a point on the west line of said Lot 13; thence North 0°01'47" West along the west line of said Lot 13 and the west line of said Lots 14, 15 and 16 a distance of 75.00 feet to the point of beginning.

Tax Parcel Nos.: 15-12-258-008 and 15-12-258-009