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**WHEN RECORDED RETURN TO:**

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11/17/2016 11:10 AM \$24.00  
Book - 10500 Pg - 9220-9226  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
SUSAN B PETERSON  
170 SOUTH MAIN ST SUITE 1500  
SLC UT 84101  
BY: CRA, DEPUTY - WI 7 P.

**DECLARATION OF CROSS ACCESS, PARKING AND DRAINAGE EASEMENTS**

This DECLARATION OF CROSS ACCESS, PARKING AND DRAINAGE EASEMENTS (this "**Declaration**") is made as of October 26, 2016, by MAD GREEK IV, LLC ("**Declarant**").

**RECITALS**

- A. Declarant is the Owner of the those certain parcels of real property described on Exhibit A attached hereto (the "**Parcels**"), which Parcels are depicted on the map attached hereto as Exhibit B. As used herein, the term "**Owner**" shall mean the record owner of fee simple title to a Parcel.
- B. Declarant desires to create, grant, and reserve for the benefit of each of the Parcels reciprocal easements for ingress and egress and parking and for the the passage of surface water runoff, as more particularly set forth in this Declaration;

NOW, THEREFORE, Declarant declares as follows:

1. **GRANT AND RESERVATION OF EASEMENTS.** . Declarant, as the Owner of each of the Parcels, hereby declares, creates, reserves, and grants the following easements, for the benefit of each of the other Parcels:
- 1.1 **Access Easements.** A perpetual, nonexclusive easement on each of the Parcels for ingress and egress by vehicular and pedestrian traffic over and across the ingress and egress access lanes, drive aisles and parking areas located on each Parcel, as such access lanes, drive aisles, and parking areas may be changed from time to time.
- 1.2 **Parking Easements.** A perpetual, nonexclusive easement for parking on the parking areas of each Parcel, as such parking areas may be changed from time to time.
- 1.3 **Easements for Surface Water Runoff.** A perpetual, nonexclusive easement for the passage of surface water runoff over and across each of the Parcels into canals, storm drains, or other surface water collection points or facilities located adjacent to or near any Parcel.

2. **USE.** The foregoing easements are granted for the benefit of the Owners, their successors and assigns, and their respective tenants, guests, customers, and other invitees for the purpose of facilitating common parking and access on, in and to the Parcels in connection with the commercial uses of the Parcels.
3. **CHANGES TO THE EASEMENT AREAS.** Declarant reserves to the Owner of each Parcel (and the easements granted herein are subject to) the right to (a) change the location of access lanes, drive aisles, and parking areas on such Owner's Parcel from time to time at such Owner's sole discretion; provided, however, that such changes shall not result in a decrease in the overall parking spaces located on the Parcel, block vehicular or pedestrian access to or from any other Parcel, or prevent the passage of surface water runoff or the drainage of such runoff into the canals, stormwater drains, or other surface water collection points or facilities into which such surface water drains as of the date of this Agreement; and (b) close off the easement area on such Owner's Parcel for such reasonable period or periods of time as may be legally necessary to prevent the acquisition of prescriptive rights by anyone; provided, however, prior to closing off the easement area on its Parcel for such purpose, such Owner shall give written notice to the other Owners of its intent to do so and shall coordinate such closing with the other Owners so that no unreasonable interference with the operations of the other Owners and their tenants, guests, customers, and invitees.
4. **MAINTENANCE OF ACCESS EASEMENT AREAS.** Each Owner shall maintain any access and parking easement area located on its property in good, clean condition and repair. Such maintenance shall include, without limitation, (a) the regular and timely removal of all garbage, debris, and refuse; (b) the timely removal of ice, snow, and standing water; and (c) maintaining, repairing, repainting and resurfacing all paved surfaces when necessary, with the type of surfacing materials used in the Parcels as of the date hereof, or a substitute material equal thereto in quality, appearance, and durability.
5. **INDEMNIFICATION AND INSURANCE.**
  - 5.1 **Indemnification.** The Owner of each Parcel, as the grantee of the easements granted herein ("**Indemnitor**") shall indemnify, defend and hold harmless each other Owner, as the grantor of such easements, as well as such grantor's agents, contractors and employees ("**Indemnitee**") from any and all liabilities, claims, damages, expenses (including, without limitation, reasonable attorney's fees and reasonable attorney's fees on any appeal), judgments, proceedings, and causes of action of any kind whatsoever for injury to or death of any person or damage to any property, unless caused by the willful or negligent act or omission of the Indemnitee (i) occurring on the Indemnitor's Parcel; (ii) arising from the use of the Indemnitee's Parcel and/or the easement area by the Indemnitor or any of its tenants, licensees, invitees, customers, agents or employees; and (iii) any negligence or willful misconduct or omission of Indemnitor or any of its tenants, licensees, invitees, customers, agents or employees.
  - 5.2 **Insurance.** The Owner of each Parcel shall provide and maintain commercial general liability insurance with broad form coverage endorsement (including broad form

property damage endorsement) covering its obligations under this Section 4 and insuring it against claims for personal injury, bodily injury or death, and property damage or destruction. Such insurance shall be written with an insurer licensed to do business in the state in which the Parcels are located and shall name the other Owner as additional insured. The limits of liability of all such insurance shall be not less than One Million Dollars (\$1,000,000.00) for personal injury or bodily injury or death of any one person, One Million Dollars (\$1,000,000.00) for personal injury or bodily injury or death of more than one person in one occurrence and Five Hundred Thousand Dollars (\$500,000.00) with respect to damage to or destruction of property; or, in lieu of such coverage, a combined single limit (covering personal injury, bodily injury or death and property damage and destruction) with a limit of not less than One Million Dollars (\$1,000,000.00) per occurrence. Each Owner shall furnish each other Owner with certificates evidencing such insurance. The policies of such insurance shall provide that the insurance represented by such certificates shall not be canceled, materially changed or non-renewed without the giving of thirty (30) days prior written notice to the holders of such insurance and the holders of such certificates. The insurance required under this Section 5 may be provided under a blanket policy provided such policy otherwise complies with the requirements of this Section 5.

## 6. MISCELLANEOUS.

- 6.1 **Runs with the Land; Successors and Assigns.** The provisions of this Declaration shall run with the land and shall inure to the benefit of, and be binding upon, the Owners and their respect successors and assigns.
- 6.2 **Modification and Termination.** This Declaration may not be modified or terminated, in whole or in part, except with the consent of the Owners, and then only by written instrument duly executed and acknowledged by the Owners and recorded in the office of the recorder of the county in which Parcels are located. In the event that any first priority mortgage or deed of trust is recorded against any Parcel, the written consent of the holder or beneficiary of such mortgage or deed of trust shall also be required to modify or terminate this Declaration.
- 6.3 **Not a Public Dedication; No Third Party Beneficiaries.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Parcels to the general public or for the general public or for any public purpose whatsoever. This Declaration is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person other than the Owners.
- 6.4 **Attorney's Fees.** In the event any party initiates or defends any legal action or proceeding arising out of or related to this Declaration, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any

such action or proceeding its reasonable costs and attorney's fees (including, without limitation, its reasonable costs and attorney's fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

- 6.5 **Severability.** If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.
- 6.6 **Not a Partnership.** The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between Owners.
- 6.7 **Entire Agreement.** This Declaration contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Declaration shall be construed as a whole and not strictly for or against any Party.
- 6.8 **Construction; Governing Law.** In construing the provisions of this Declaration and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular. The captions and headings in this Declaration are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein. This Declaration shall be governed by and constructed and enforced in accordance with the internal laws of the State of Utah.
- 6.9 **Exhibits and Schedules.** All Exhibits and Schedules are considered an integral part of this Declaration and are hereby incorporated herein and this Declaration shall not be considered executed and/or complete until and unless they shall be attached hereto.

*[Signature Page Follows]*

DECLARANT:

MAD GREEK IV, LLC,  
a Utah limited liability company

By: *A.C. Walburg*  
Name: *A.C. Walburg*  
Title: *Managing Member*

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF *Contra Costa* )

On October *26*, 2016, before me, *Patricia A. Rivera*,  
a Notary Public, personally appeared *A.C. Walburg*,  
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: *Patricia A. Rivera*

(Seal)



Exhibit A

Legal Description

BEGINNING AT A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF 4700 SOUTH STREET, SAID POINT BEING NORTH 0°03'15" WEST ALONG THE SECTION LINE 75.94 FEET AND NORTH 89°56'29" EAST 90.67 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTH 44°50'47" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE 28.37 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF REDWOOD ROAD; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT OF WAY LINE THE FOLLOWING FOUR COURSES: 1) NORTH 0°04'02" WEST 14.69 FEET, 2) NORTH 0°04'02" WEST 139.91 FEET, 3) NORTH 2°35'03" WEST 264.00 FEET, 4) NORTH 0°03'15" WEST 210.04 FEET; THENCE EAST 46.00 FEET TO A POINT ON THE WESTERLY LINE OF MEADOWBROOK FARMS NO. 18 SUBDIVISION, AS RECORDED WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER, THENCE ALONG SAID WESTERLY LINE THE FOLLOWING THREE COURSES: 1) SOUTH 16°45'00" EAST 197.71 FEET, 2) SOUTH 23°00'00" EAST 203.45 FEET, 3) SOUTH 31°30'00" EAST 318.44 FEET TO A POINT ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE SOUTH 89°56'00" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE 316.57 FEET TO THE POINT OF BEGINNING.

CONTAINS 109,059 SQ. FT. OR 2.504 ACRES (3 Lots)

