

ENT 26436 BK 3666 PG 852  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
1995 APR 28 3:34 PM FEE 25.00 BY BT  
RECORDED FOR PROVO LAND TITLE COMPANY...

**RECIPROCAL EASEMENT FOR ACCESS AND PARKING**

THIS EASEMENT AGREEMENT is made on this 10<sup>th</sup> day of April, 1995, by and among SUMMIT LIMITED PARTNERSHIP FOUR, d/b/a Hampton Inn and Sleep Inn, a South Dakota Limited Partnership ("Summit"), c/o Scott Bartlett, 300 North Dakota Avenue, Suite 403, Sioux Falls, South Dakota 57102, and UNIVERSAL CAMPUS CREDIT UNION, INC. ("Universal") 188 West River Park Drive, Provo, Utah 84604.

**WITNESSETH:**

WHEREAS, Summit Limited Partnership Four is the owner in fee of real estate legally described on Exhibit A, ("Parcel No. 1") and

WHEREAS, Universal Campus Credit Union, Inc. is the owner in fee of real estate legally described on Exhibit B, ("Parcel No. 2") and

WHEREAS, all parties to this Agreement desire to create an easement for access and parking on each other's properties, which grants each of the parties the right of ingress and egress on each other's properties;

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein, and other good and valuable consideration, which is hereby acknowledged, the parties agree as follows:

1. Grant of Easements. Summit and Universal ("Owners") hereby grant each to the other and to each individual, partnership, joint venture, corporation, trust, unincorporated association, governmental agency or other business entity now or hereafter holding an ownership interest in fee in a portion of Parcel No. 1 or Parcel No. 2 ("Parcels") the following easements:
  - a. Pedestrian Easements. Nonexclusive easements for the purpose of pedestrian traffic between each Parcel and: (i) the public streets and alleys now or hereafter abutting or located in any portion of the Total Site; (ii) the public walkways, sidewalks, concourses, plazas, malls, skywalks and bridges now and hereafter abutting or located on any portion of the Parcel; and (iii) the public parking areas now and hereafter abutting the Parcels; limited however, to those portions of each Parcel which are improved by

the Owners thereof from time to time for pedestrian walkways and made available by such Owner for general use.

- b. Vehicular Easements. Nonexclusive easements for the purpose of vehicular traffic between each Parcel and the public streets and alleys now and hereafter abutting or located on any portion of the Parcel; limited however, to those portions of the Parcels which are improved by the Owners thereof from time to time for vehicular accessways as such portions may be relocated from time to time by such Owner. Single car parking shall be allowed on both Parcels for the benefits of each Owner's guests, invitees, partners, customers, and vendors.
  - c. Access Easements. Nonexclusive easements between each Parcel and the public streets and ways abutting or crossing any portion of the Parcel for the purpose of providing ingress, egress and access to the easements hereby created.
  - d. Self Help Easements. Nonexclusive rights of entry and easements over, across and under each Parcel for all purposes reasonably necessary to enable any other Owner of a Parcel to perform any of the provisions of this Agreement which a defaulting Owner has failed to perform.
2. Construction of Easements. Each party to this Agreement shall construct, at its sole cost and expense, the improvements on the easement or easements applicable to its Parcel. The improvements on the Easements shall be constructed of asphalt and cement curb in accordance with approved plans and specifications provided reviewed, and approved by each party. All parties shall give due consideration to the drainage conforming to the adjoining Parcels.
  3. Time for Easement Construction. Each Party's responsibility to construct and maintain the easements on their respective parcels shall begin as the property is improved.
  4. Maintenance of Easement Areas. Each Party shall maintain and keep in good repair the parking areas and rights-of-way situated on its premises and shall keep such areas and rights-of-way stripped and clear and free of snow, ice and rubbish and shall provide adequate drainage and lighting thereon. Repair of potholes and obstructions due to use of the Parcels shall be the responsibility of the Owners of the Parcels upon which the damage or obstruction lies, or upon the Parcel the repair is being effectuated.

The parking areas and rights-of-way on the Parcels shall meet at equal grade and no obstruction shall be erected or permitted upon the Parcels which will in any way interfere with any rights granted by this Agreement. No Party shall change the striping with respect to the parking spaces and the driveways on its premises without the other parties' written consent. Each Party shall maintain at all times insurance against claims for personal injury or property damage in an amount not less than \$200,000 with respect to any one injury, \$500,000 with respect to injuries in any one accident and \$50,000 with respect to property damage.

5. Unimpeded Access. The Owners agree that no barricade or other divider will be constructed between the Parcels and the Owners will do nothing to prohibit or discourage the free and uninterrupted flow of pedestrian traffic throughout the Parcel in the areas designated for such purpose by the Owner of each Parcel; provided that each Owner will have the right to temporarily erect barriers to avoid the possibility of dedicating such areas for public use or creating prescriptive rights therein.
6. Covenants Running with Land. The easements hereby granted, the restrictions hereby imposed, and the agreements herein contained shall be easements, restrictions, and covenants running with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, successors, and assigns, including, but without limitation, all subsequent owners of Parcel No. 1 and Parcel No. 2, and all persons claiming under them.
7. No Dedication. Nothing contained in this Agreement will be deemed to constitute a gift, grant or dedication of any portion of a Parcel to the general public or for any public purpose whatsoever, it being the intention of the Owners that this Agreement will be strictly limited to the private use of the Owners and their respective Permittees. This Agreement is intended to benefit the Owners and their respective successors, assigns and mortgagees and is not intended to constitute any person which is not an Owner a third party beneficiary hereunder or to give any such person any rights hereunder.
8. Enforcement.
  - a. In the event either Owner has failed to comply with any obligation or has violated any restriction contained herein, the non-defaulting party may (but shall not be obligated to), after thirty (30) days written notice, enter upon the Parcel of the defaulting party and perform or cause the performance of such obligation or correct such violation. The defaulting party shall pay to the non-defaulting party, immediately upon demand all reasonable costs

incurred by the non-defaulting party to cause the performance of such obligation, correct such violation or otherwise enforce the terms of this Agreement (including reasonable attorneys' fees). If any such amount is not paid within thirty (30) days after demand for payment, interest will accrue on such amount until paid in full at the lesser of (a) the highest rate permitted under the laws of Utah, or (b) eighteen percent (18%) per annum, and such amount (including interest and fees), until paid in full, shall be secured by a lien hereby granted by the defaulting party against its Parcel.

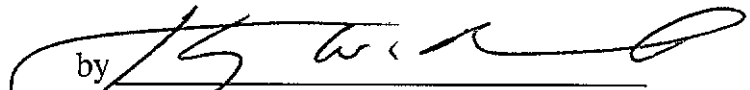
- b. In the event of any default of any provisions of this Agreement by either Owner, the non-defaulting party shall have the right, in addition to any other remedies which such party may have by law or otherwise, to seek injunctive relief and enjoin the defaulting party from continuing such default.
  - c. Either Owner may waive any default by the other without waiving any other prior or subsequent default hereunder. Neither the failure by either Owner to exercise, nor any delay by either Owner in exercising, any right, power, restrict, or remedy upon any default by the other shall be construed as a waiver of such default or as a waiver of the right to exercise any such right, power, restrict or remedy at a later date.
9. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument but in making proof hereof it shall only be necessary to produce one such counterpart.
10. Amendment. This Agreement and any provision herein contained may be terminated, extended modified or amended upon written consent of all of the Owners of the Parcels.
11. Entire Agreement. This Agreement supersedes all agreements previously made between the parties relating to this subject matter to the extent they conflict with this Agreement.
12. Notices. All notices under this agreement shall be in writing and delivered personally or mailed by certified mail, postage prepaid, addressed to the parties at their last known addresses.

- 13. Non-Waiver. No delay or failure by either party to exercise any right under this agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.
- 14. Headings. Headings in this agreement are for convenience only and shall not be used to interpret or constructing provisions.
- 15. Governing Law. This agreement shall be construed under the laws of the State of Utah.


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

SUMMIT LIMITED PARTNERSHIP FOUR

by THE SUMMIT GROUP, INC.  
Its General Partner

by   
Its President

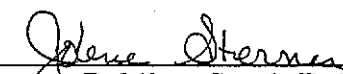
UNIVERSAL CAMPUS CREDIT UNION,  
INC.

by   
Its President

STATE OF SOUTH DAKOTA        )  
  :SS  
COUNTY OF MINNEHAHA        )

On the 10<sup>th</sup> day of April, 1995, before me, the undersigned officer, personally appeared Kerry W. Boekelheide, who acknowledged himself to be the President of The Summit Group, Inc., a corporation, and that as such President, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary Public - South Dakota  
JOLENE STERNER, Notary Public  
My Commission Expires April 15, 1999

STATE OF UTAH )

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COUNTY OF UTAH )

:SS

On the 27 day of APRIL, 1995, before me, the undersigned officer, personally appeared RONALD S. ELIASON, who acknowledged himself to be the President of Universal Campus Credit Union, Inc., a corporation, and that as such President, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Hedi Markowski  
Notary Public - South Dakota PROVO, UTAH

EXHIBIT A

Parcel 1: Lot 1 of PIAT "A" Summit, Utah County, State of  
Utah Group Fee, Subdivision

EXHIBIT B

Parcel 2: Lot 2 of Plat "A" Summit Utah County, State of  
Utah Group Inc. Subdivision