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WHEN RECORDED MAIL TO:

TERRABROOK  
EDWARD L. GRAMPP, JR.  
2021 EAST VILLAGE GREEN CIRCLE  
DRAPER, UTAH 84020

EASEMENT

ATC-142838

This EASEMENT (the "Easement") is made as of this 17 day of ~~October~~ <sup>Dec.</sup>, 2002, by Van Edward Burgess and Joann C. Burgess as Trustees of the Van Edward Burgess Family Revocable Trust Agreement (collectively "Grantor"), as the owner of fee title to a parcel of real property more particularly described on Exhibit A attached hereto (the "Grantor's Property"), for the benefit of Highland City, a Utah municipal corporation (the "City").

In consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor:

ENT 153954:2002 PG 1 of 9  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2002 Dec 19 3:47 pm FEE 30.00 BY SS  
RECORDED FOR FIRST AMERICAN TITLE CO

1. Grant of Easements.

- (a) Temporary Construction Easement. Contemporaneously with the execution of this Easement, Grantor has executed a Deed of Dedication conveying to the City certain real property upon which the City or its assigns intends to construct or cause to be constructed a public road, with its accompanying utility lines, including but not limited to water, sewer, drainage, etc., (the "Road"). During the period of construction of the Road, the City, its successors and assigns, and their respective agents and contractors, shall have and are hereby granted the non-exclusive right to enter upon and use the portion of the Grantor's Property more particularly described on Exhibit B-1 attached hereto to enable them to gain access to the Road and for the purpose of constructing the Road and other utility lines, including but not limited to water, sewer, drainage, etc.
- (b) Slope Easement. Grantor hereby grants, bargains, sells and conveys to the City, its successors, assigns, transferees, and others claiming by, through or under them, a permanent, non-exclusive easement (the "Slope Easement") on, over and across the portion of the Grantor's Property more particularly described on Exhibit B-2 attached hereto (collectively the "Slope Easement Property"). The Slope Easement granted in this subparagraph (b) is for the purpose of constructing and thereafter maintaining and restoring slopes, cuts and fills (the "Slope Improvements") on, over and across the Slope Easement Property in accordance with grading plans to be prepared by the City and approved by such governmental agencies as shall have jurisdiction over the same (the "Approved Sloped Plans"). The Slope Easement shall be deemed to be appurtenant to the Road and shall be deemed to have been granted for the benefit of any and all persons from time to time using the Road.
- (c) Detention and Conveyance Easement. Grantor hereby grants, bargains, sells, and conveys to the City, its successors, assigns and transferees, and others claiming by, through or under them, a permanent, exclusive

easement (the "Detention Easement") on, over and across the portion of the Grantor's Property more particularly described on Exhibit B-3 attached hereto (the "Detention Easement Property"). The Detention Easement granted by this Agreement is for the purpose of constructing and thereafter operating, maintaining and restoring a stormwater detention and/or retention basin and related stormwater conveyance facilities (the "Detention Improvements" and, together with the Slope Improvements, collectively the "Improvements") on, over, under and across the Detention Easement Property in accordance with engineering plans to be prepared by the City and/or other utilities or governmental entities and approved by such governmental agencies as shall have jurisdiction over the same (the "Approved Detention Plans"). The Detention Improvements are appurtenant to the Road and shall be deemed to have been granted for the benefit of any and all persons from time to time using the Road.

2. Affected Property. After the City has completed construction of the Road, the Slope Improvements and the Detention Improvements, it will, at the City's sole cost and expense, resurface, level, grade, vegetate and revegetate the affected property in accordance with the various approved plans.

3. Grantor's Title. Grantor hereby covenants and agrees that it has good title to each and all of the properties over which easements are granted pursuant to the foregoing Paragraph 1 (all such properties collectively the "Easement Property"; and all such easements collectively the "Easements"), and that it has good and lawful right to grant the Easements granted herein, and Grantor hereby warrants title to the Easement Property against all persons claiming by, through or under Grantor, subject to easements, covenants, conditions and restrictions of record affecting the Easement Property and duly recorded in the real property records of Utah County, Utah.

4. Termination of Certain Obligations. The Temporary Construction Easement specified in Paragraph 1(a), and the City's obligations pursuant to Paragraphs 4 and 5, shall be deemed to have terminated and to be of no further force or effect at such time as the Road shall be open for public traffic.

5. Obligations Run With the Land. This Agreement shall be binding upon Grantor, its successors, assigns and transferees, and shall inure to the benefit of Highland City, its successors, assigns and transferees, and shall run with the land.

6. Notices. All notices ("Notices") hereunder shall be deemed to have been duly given if personally served or sent by overnight express mail or courier service to the other parties hereto at their addresses first set forth above and shall be complete upon receipt or refusal to accept delivery as indicated in the return receipt or in the receipt of such express mail or courier service.

If to Grantor:

c/o Van Edward Burgess  
645 Alpine Highway  
Alpine, Utah 84044  
Facsimile: 801-\_\_\_\_\_

If to Highland City:

Barry Edwards  
HIGHLAND CITY  
5378 West 10400 North  
Highland, Utah 84003

With copies to DAE/Westbrook:

Edward L. Grampp, Jr.  
Vice President  
Terrabrook  
2021 East Village Green Circle  
Draper, Utah 84020  
Facsimile: 801-571-9104

Monty Watson, Esq.  
Assistant General Counsel  
Terrabrook  
3030 LBJ Freeway  
LB6 Suite 1500  
Dallas, Texas 75234  
Facsimile: 972-443-6190

Michael F. Jones  
Bruce R. Baird  
Baird & Jones LC  
201 South Main Street, Suite 900  
Salt Lake City, Utah 84111-2215  
Facsimile: 801-328-1444

Any Notice which is personally served shall be effective upon the date of service; any notice given by U.S. Mail shall be deemed effectively given, if deposited in the United States Mail, registered or certified with return receipt requested, postage prepaid and addressed as provided above, on the date of receipt, refusal or non-delivery indicated on the return receipt. Alternatively, any Party may send Notices by facsimile or by a nationally recognized overnight courier service which provides written proof of delivery (such as U.P.S. or Federal Express).

Any Notice sent by Facsimile shall be effective upon confirmation of receipt in legible form, and any Notice sent by a nationally recognized overnight courier shall be effective on the date of delivery to the Party at its address specified above as set forth in the courier's delivery receipt. Any Party may, by Notice to the others from time to time in the manner herein provided, specify a different address for Notice purposes (other than the copies to DAE/Westbrook, which may only be changed by DAE/Westbrook).

9. Attorneys' Fees. In the event any party hereto commences legal proceedings to enforce any of the terms of this Agreement, the prevailing party in such action shall have the right to recover reasonable attorneys' fees and costs from the other party or parties to be fixed by the court in such action.

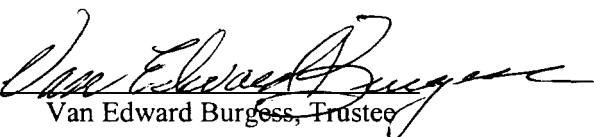
10. Further Assurances. Grantor agrees to execute and deliver such other and further documents and to take such other and further action as may from time to time reasonably be requested by the City to effectuate the purposes of this Agreement.

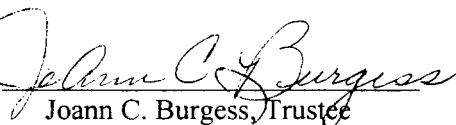
11. Authority. The individuals who have signed this Agreement represent and warrant that they are duly authorized to execute this Agreement, in either their individual or representative capacity as indicated, and that this Agreement is enforceable according to its terms.

IN WITNESS WHEREOF, Grantor and the City have caused their names to be hereunto affixed by their duly authorized officers, or personally signed the same, as the case may be, as of the day and date first set forth above.

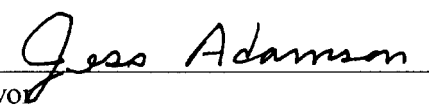
**"GRANTOR":**

Van Edward Burgess and Joann C. Burgess  
as Trustees of the Van Edward Burgess  
Family Revocable Trust Agreement

By:   
Van Edward Burgess, Trustee

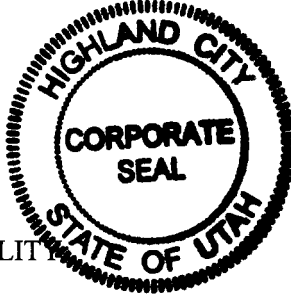
By:   
Joann C. Burgess, Trustee

**HIGHLAND CITY:**

  
Mayor

Attest:

Winfred N. Jensen  
City Recorder



APPROVED AS TO FORM AND LEGALITY

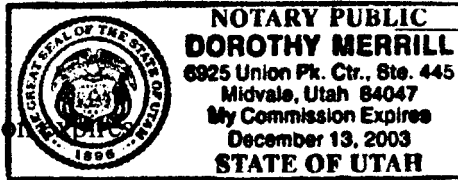
\_\_\_\_\_  
City Attorney

STATE OF UTAH )

: SS.

COUNTY OF S.C. )

On the 17 day of ~~October~~ <sup>Dec.</sup>, 2002, the foregoing instrument was acknowledged before me by Van Edward Burgess and Joann C. Burgess.



My commission expires:

[Signature]  
Notary Public

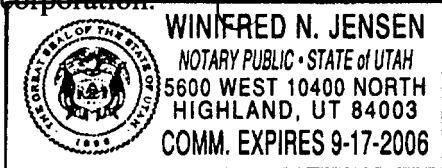
My residence is:

STATE OF UTAH )

: SS.

COUNTY OF Utah )

On the 22nd day of ~~October~~ <sup>November</sup>, 2002, the foregoing instrument was acknowledged before me by Jess Adamson as the mayor of Highland City, a Utah municipal corporation.



My commission expires:

9/17/2006

Winfred N. Jensen  
Notary Public

My residence is:

Highland, Utah

Exhibit A

Legal Description for Grantor Property  
(Parcel B)

Commencing at the Southeast corner of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian; thence West 20.00 chains; thence North 17.65 chains; thence North  $66^{\frac{1}{2}}$  deg. East 5.88 chains; thence East 14.61 chains; thence South 20.00 chains to beginning. Area 39.37 acres. Utah County, Utah.

Exhibit B-1*[Legal Description of Temporary Construction Easement Property]*EAST SIDE

Commencing at a 3" Utah County brass cap monument (1958) marking the Southeast Corner of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian (basis of bearing being South 89°53'10" West 2647.723 feet from said southeast corner to a 3" Utah County brass cap monument (1987) marking the South Quarter Corner of said Section 22); thence South 89°53'10" West 1200.929 feet along the south line of said section and along the south line of that certain Parcel B conveyed to Van Edward Burgess and JoAnn C. Burgess as Trustees of the Van Edward Burgess Family Revocable Trust Agreement dated the 14<sup>th</sup> day of April, 1981 by Quit Claim Deed as recorded in Book 1907 at Page 200-202 in the office of the Utah County Recorder to the POINT OF BEGINNING; thence South 89°53'10" West 23.084 feet along said south section line and said south boundary; thence North 00°57'01" West 50.515 feet; thence North 00°54'03" East 179.736 feet; thence North 00°39'06" East 148.368 feet; thence North 00°05'47" East 325.890 feet; thence North 02°55'24" West 121.452 feet; thence North 08°15'55" East 70.415 feet; thence North 01°24'31" East 185.277 feet; thence North 03°41'39" East 52.371 feet; thence North 04°15'19" West 96.524 feet to the northerly boundary of said Burgess parcel; thence North 66°17'46" East 7.712 feet along said northerly boundary; thence along a non-tangent curve to the right having a radius of 727.000 feet, whose center bears South 80°40'16" West (chord bears South 04°36'00" East 119.875 feet) for an arc distance of 120.011 feet; thence South 00°07'45" West 1112.757 feet to the POINT OF BEGINNING.

Exhibit B-2*[Legal Description of Slope Easement Property]*

Two parcels of land for the purpose of slope easements, located in the Southeast Quarter of the Southeast Quarter of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian and being more particularly described as follows:

EAST SIDE

Commencing at a 3" Utah County brass cap monument (1958) marking the Southeast Corner of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian (basis of bearing being South 89°53'10" West 2647.723 feet from said southeast corner to a 3" Utah County brass cap monument (1987) marking the South Quarter Corner of said Section 22); thence South 89°53'10" West 1224.013 feet along the south line of said section and along the south line of that certain Parcel B conveyed to Van Edward Burgess and JoAnn C. Burgess as Trustees of the Van Edward Burgess Family Revocable Trust Agreement dated the 14<sup>th</sup> day of April, 1981 by Quit Claim Deed as recorded in Book 1907 at Page 200-202 in the office of the Utah County Recorder to the POINT OF BEGINNING; thence South 89°53'10" West 6.916 feet along said south section line and said south boundary; thence North 00°07'45" East 1112.884 feet; thence along a curve to the left having a radius of 697.000 feet, with a central angle of 08°49'31" (chord bears North 04°17'00" West 107.253 feet) for an arc distance of 107.359 feet to the northerly boundary of said Burgess parcel; thence North 66°17'46" East 23.302 feet along said northerly boundary; thence South 04°15'19" East 96.524 feet; thence South 03°41'39" West 52.371 feet; thence South 01°24'31" West 185.277 feet; thence South 08°15'55" West 70.415 feet; thence South 02°55'24" East 121.452 feet; thence South 00°05'47" West 325.890 feet; thence South 00°39'06" West 148.368 feet; thence South 00°54'03" West 179.736 feet; thence South 00°57'01" East 50.515 feet to the POINT OF BEGINNING.

WEST SIDE

Commencing at a 3" Utah County brass cap monument (1958) marking the Southeast Corner of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian (basis of bearing being South 89°53'10" West 2647.723 feet from said southeast corner to a 3" Utah County brass cap monument (1987) marking the South Quarter Corner of said Section 22); thence South 89°53'10" West 1304.930 feet along the south line of said section and along the south line of that certain Parcel B conveyed to Van Edward Burgess and JoAnn C. Burgess as Trustees of the Van Edward Burgess Family Revocable Trust Agreement dated the 14<sup>th</sup> day of April, 1981 by Quit Claim Deed as recorded in Book 1907 at Page 200-202 in the office of the Utah County Recorder to the POINT OF BEGINNING; thence South 89°53'10" West 18.931 feet along said south section line and said south boundary to the southwest corner of said Burgess parcel; thence North 00°10'57" East 1183.293 feet along the west boundary of said Burgess parcel to the northwest corner of said parcel; thence North 66°17'46" East 14.428 feet along the northerly boundary of said Burgess parcel; thence along a non-tangent curve to the right having a radius of 623.000 feet, whose center bears South 83°08'12" West, with a central angle of 06°59'33" (chord bears South 03°22'02" East 75.986 feet) for an arc distance of 76.033 feet, thence South 00°07'45" West 1113.198 feet to the POINT OF BEGINNING.



Exhibit B-3*[Legal Description of Detention Easement Property]*

A parcel of land for the purpose of a storm drain detention and conveyance easement, located in the Southeast Quarter of the Southeast Quarter of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian and being more particularly described as follows:

Commencing at a 3" Utah County brass cap monument (1958) marking the Southeast Corner of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian (basis of bearing being South 89°53'10" West 2647.723 feet from said southeast corner to a 3" Utah County brass cap monument (1987) marking the South Quarter Corner of said Section 22); thence South 89°53'10" West 1143.524 feet along the south line of said section and along the south line of that certain Parcel B conveyed to Van Edward Burgess and JoAnn C. Burgess as Trustees of the Van Edward Burgess Family Revocable Trust Agreement dated the 14<sup>th</sup> day of April, 1981 by Quit Claim Deed as recorded in Book 1907 at Page 200-202 in the office of the Utah County Recorder to the POINT OF BEGINNING; thence South 89°53'10" West 87.405 feet along said south section line and said south boundary; thence North 00°07'45" East 108.925 feet along the easterly right-of-way line of the future Suncrest Drive; thence North 90°00'00" East 87.159 feet; thence South 00°00'00" West 108.751 feet to the POINT OF BEGINNING.