



W2193480

WHEN RECORDED RETURN TO:

Matt C. Osborne
OSBORNE & BARNHILL, P.C.
11578 South State Street, Bldg. 204
Draper, UT 84020

EN 2193480 PG 1 OF 5
DOUG CROFTS, WEBER COUNTY RECORDER
13-JUL-06 FEE \$20.00 DEP 46
REC FOR: PEACHTREE PLACE

Tax Serial No. 08-458-0001; and
Tax Serial No. 08-458-0002

EASEMENT AND RIGHT-OF-WAY AGREEMENT

This Easement and Right-of-Way Agreement ("Agreement") is made effective this 13th day of July, 2006, by and between Peachtree Place - Lot 6, LLC, a Utah limited liability company ("Grantor") and Peachtree Place VII, L.C. ("Grantee"). For good and valuable consideration the adequacy of which is hereby acknowledged, the parties hereto understand and agree as follows:

RECITALS

This Agreement is based on the following factual recitals:

A. Grantor is the owner of the following described property located in Weber County, State of Utah:

Lot 5 of the Sodenkamp Subdivision Amended Lot 5, according to the official plat thereof. (Tax Serial No. 08-458-0001) ✓

(hereinafter "Lot 5").

B. As of the date of this Agreement, Grantee is the owner of the following described property located in Weber County, State of Utah:

Lot 6 of the Sodenkamp Subdivision Amended Lot 5, according to the official plat thereof. (Tax Serial No. 08-458-0002) ✓

(hereinafter "Lot 6").

C. The purposes contemplated by this Agreement are to create an appurtenant easement that is inseparable, other than stated herein, from the land affected by the easement, and to provide the parties hereto and their guests, invitees, tenants, or licensees with unobstructed use of the easement and right-of-way created herein, so long as the use conforms with the terms and conditions contained within this Agreement.

TERMS AND CONDITIONS

1. EASEMENT

1.1 Subject to the duration terms and conditions set forth in Section 3 below, a perpetual easement and right-of-way ("easement") is established across, over, and through the easement premises over Lot 6 for the purpose of ingress to and egress from Lot 5 inclusive, for Grantee and its guests, invitees, tenants, or licensees including for the construction, maintenance and repair of a paved road within the boundaries of the easement, and for the construction, maintenance and repair (including reconstruction) of utilities, as set forth more fully below.

1.2 The legal description for the boundaries of this easement are described as follows:

BEGINNING AT THE NORTHEAST CORNER OF LOT 5 SODENKAMP SUBDIVISION; THENCE SOUTH 43°49'14" WEST 224.41 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 43°49'14" WEST 38.59 FEET; THENCE NORTH 89°39'16" WEST 602.94 FEET; THENCE NORTH 00°42'44" EAST 28 FEET ALONG THE EAST LINE OF 3500 WEST STREET; THENCE SOUTH 89°39'16" EAST 629.31 FEET TO THE POINT OF BEGINNING.

1.3 This easement grants rights of ingress to and egress from Lot 5 for Grantee and its guests, invitees, tenants or licensees as well as ingress to and egress from Lot 6 for Grantor, and its guests, invitees, tenants or licensees.

1.4 This easement burdens Lot 6, and benefits and runs with Lot 5, inclusive.

1.5 This easement also benefits any utility company or municipality providing utility services to Lot 5.

2. USE, REPAIR AND MAINTENANCE OF EASEMENT

2.1 This easement is to be used for ingress to and egress from Lot 6 to Lot 5 and for utility connections. This easement shall be maintained as set forth in Section 2.3.

- 2.2 The parties will exercise reasonable care in their use of this easement so as not to cause more than normal wear and tear on the roadway or other easement improvements. Any damage to this easement premises caused by a party hereto or its guests, invitees, tenants or licensees shall promptly be repaired by that party at its sole expense.
- 2.3 Except as noted by Section 2.2, when repairs and/or maintenance are necessary, the Grantee will be responsible for performing the required maintenance, repairs, or capital improvements on any part of the easement located on Lot 5 and Grantor will be responsible for performing the required maintenance, repairs or capital improvements on any part of the easement located on Lot 6.
- 2.4 The Grantor and Grantee agree that each shall have reasonable rights of access and passage over the other's property immediately adjacent to and surrounding the easement as is reasonably necessary for the purpose of conducting maintenance and repair of or making capital improvements to this easement.
- 2.5 If, in connection with the use or maintenance of the easement, either party or its guests, invitees, tenants or licensees damages the other party's property outside the easement, that party shall promptly repair the damage at its sole expense and restore the property to a condition reasonably comparable to its condition immediately prior to occurrence of the damage.

3. **DURATION**

- 3.1 The easement rights and responsibilities set forth in this Agreement shall be perpetual and shall run with the land, and shall be binding on, and inure to the benefit of, the successors and assigns of the parties.
- 3.2 The easement rights and responsibilities set forth in this Agreement cannot be extinguished by non-use.

4. **ASSIGNMENT OF RIGHTS**

- 4.1 The rights granted in, and that are the subject of, this Agreement shall not be assignable by the Grantee or Grantor except as an appurtenance to and in conjunction with the transfer, conveyance, sale or subdivision of their respective parcels of property identified in the recitals above.

5. REMEDIES

5.1 In the event of the breach of this Agreement, the non-breaching party shall be entitled to reasonable attorney's fees and costs incurred in enforcing or affecting compliance with this Agreement whether or not litigation is instituted.

5.2 Remedies for misuse of the easement do not include termination of the easement.

In witness, the undersigned have executed this Agreement of easement and right-of-way rights and responsibilities on the date first written above.

GRANTOR:

PEACHTREE PLACE - LOT 6, L.L.C., a Utah limited liability company,

Jon Purvance
By: Jon Purvance
Its: Member/Chief Executive Officer

STATE OF UTAH)
) :ss
COUNTY OF SALT LAKE)

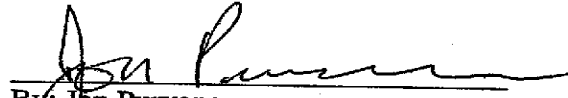
On this 13 day of July, 2006, personally appeared before me, Jon Purvance, who duly acknowledged to me that he signed the foregoing Easement Agreement and Right-of-Way Agreement as a Member and Chief Executive Office for Peachtree Place - Lot 6, L.L.C.

 **TAMRA K THOMAS**
Notary Public
State of Utah
My Commission Expires Aug. 8, 2007
11576 S. State Street, Bldg 204, Draper, UT 84020

T. Thomas
NOTARY PUBLIC
Residing at _____

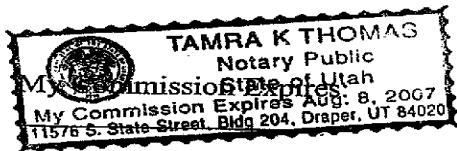
GRANTEE:

PEACHTREE PLACE VII, L.C., a Utah
limited liability company,


By: Jon Purvance
Its: Manager

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this 13 day of July, 2006, personally appeared before me, Jon Purvance, who duly acknowledged to me that he signed the foregoing Easement Agreement and Right-of-Way Agreement as Manager of Peachtree Place VII, L.C.




NOTARY PUBLIC

Residing at _____