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E# 2964762 PG 1 OF 11  
Leann H. Kiltz, WEBER COUNTY RECORDER  
08-Feb-19 02:09 PM FEE \$31.00 DEP LK  
REC FOR: FOUNDERS TITLE COMPANY - LAYTON  
ELECTRONICALLY RECORDED

**EASEMENT AGREEMENT**  
(storm water)

15-474-0001

This EASEMENT AGREEMENT is entered into this 12<sup>th</sup> day of April, 2017, by and between Grantor, SAINT PAUL PROPERTIES FUND III, LLC, a Delaware limited liability company ("Landowner"), and Grantee # 1, SANDSTONE SHOPPING CENTER, LLC, a Utah limited liability company, and its successors, assign(s) or transferee(s) ("Easement Holder # 1"), and Grantee # 2, WALL BROTHERS CONSTRUCTION LLC, a Utah limited liability company, and its successors, assign(s) or transferee(s) ("Easement Holder # 2") and Grantee # 3, Michael R. Smith and Melissa Smith, and their successors, assign(s) or transferee(s) ("Easement Holder # 3"), Easement Holder # 1, Easement Holder # 2 and Easement Holder # 3 shall collectively be referred to herein as "Easement Holders".

A. Landowner is the sole owner of certain real estate in the City of Ogden, Weber County, Utah, which is legally described in Exhibit "A" and incorporated herein by this reference ("Landowner's Property").

B. Easement Holders own parcels of land adjacent to Landowner's Property. Such parcels of land are legally described in Exhibit "B" and incorporated herein by this reference ("Easement Holders' Property").

In consideration of the facts recited above, Landowner and Easement Holders agree as follows:

**GRANT OF EASEMENT**

1. **Grant of Easement.** Landowner hereby grants and conveys to Easement Holders a perpetual, non-exclusive, rent-free, ten foot wide storm drain easement over Landowner's Property (the "Easements") in those locations set forth in Exhibit "C", attached. Exhibit "C" is a copy of an unrecorded plat titled the "Wall Commercial Subdivision - 1<sup>st</sup> Amendment". Exhibit "C" is used for the purpose of identifying the location of the Easement Holders' storm drain Easements. The parties acknowledge that Exhibit "C" contains inaccurate and therefore useless information relative to lot numbers and the subdivision of lots. Therefore, Exhibit "C" shall not be used for any purpose other than to identify and establish the location of the storm drain Easements.

2. **Use of Easements.** The purpose of the Easements is to provide storm water runoff to a retention basin located on Landowner's Property, which retention basin has been engineered and sized to accommodate the runoff from Landowner's Property and Easement Holders' Property. The Easements have historically been used to convey storm water runoff from Easement Holders' Property to the retention basin. Located within the Easement are underground pipes and/or above ground drainage channels through which storm water flows to the retention basin. Landowner has no knowledge of any of the foregoing and has not investigated or inquired about the same.

**3. Maintenance.** At Easement Holders cost and at no cost to Landowner, Easement Holders shall be responsible for maintaining the storm drain Easement to the extent necessary for the uses described in this Easement Agreement.

**4. Retention Pond Maintenance.** Landowner and Easement Holders shall share in the expenses associated with the repair and maintenance of the retention pond. The expenses shall be shared pro rata. The Easement Holders' portion shall be calculated as a percentage of the total square footage of the Easement Holders' lots ( $215,053 \text{ ft}^2 + 141,425 \text{ ft}^2 = 356,478 \text{ ft}^2$ ) divided by the total combined square footage of the Landowner's lot ( $995,456 \text{ ft}^2$ ) and the Easement Holders' lots [ $356,478 / 1,351,934 \text{ ft}^2 = 26.36\%$ ].

**5. Damage to Landowner's Property.** Easement Holders shall be responsible for any damage they may cause to Landowner's Property in maintaining the Easement. The party responsible for such damage shall promptly make all needed repairs and restore Landowner's Property to its condition prior to the damage.

**6. Obstructions to Use of the Easement Property.** Neither Landowner, Easement Holders, nor any person permitted to use the Easement over Landowner's Property under the terms of this Easement Agreement may utilize Landowner's Property in a way that unreasonably interferes with its use or the Easement. Any obstructions or impediments to the use of Landowner's Property or the Easement may be removed, without notice, by Landowner or Easement Holders and the cost of such removal shall be borne by the party causing or responsible for such obstruction.

**7. Enforcement of Agreement.** Landowner and Easement Holders shall have the right to legally enforce this Easement Agreement and the covenants, conditions and restrictions set forth herein, by whatever action or actions are legally available, including, without limitation, enjoining any violation or threatened violation hereof.

**8. Amendments.** This Easement Agreement may not be modified, amended or terminated except by execution and recording of a written instrument signed by both Landowner and Easement Holders.

**9. Successors.** All of the terms, covenants, conditions, and obligations set forth in this Easement Agreement shall inure to the benefit of and bind the Landowner and Easement Holders, and their respective personal representatives, heirs, successors, transferees and assigns, and shall continue as a servitude running in perpetuity with the Landowner's Property.

**10. Severability.** If any provision or specific application of this Easement Agreement is found to be invalid by a court of competent jurisdiction, the remaining provisions or specific applications of this Easement Agreement shall remain valid and binding.

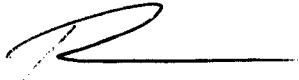
**11. Governing Law.** This Easement Agreement shall be governed by and construed under the laws of the State of Utah.

*[SIGNATURES ON FOLLOWING PAGES]*



**ACCEPTANCE OF EASEMENT HOLDER'S INTEREST**

The foregoing Easement Agreement is hereby duly accepted by **SANDSTONE SHOPPING CENTER, LLC** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

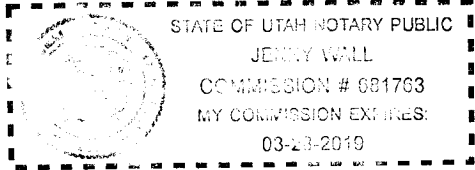
By: 

Name: R Scott Priest  
Its: Manager

STATE OF UTAH            )  
  ) ss  
DAVIS COUNTY        )

On this 20 day of April, 2017, personally appeared before me, the undersigned Notary Public, R. Scott Priest, who acknowledged to me that he is authorized to, and did in fact execute this Easement Agreement on behalf of **SANDSTONE SHOPPING CENTER, LLC**.

  
Notary Public



**ACCEPTANCE OF EASEMENT HOLDER'S INTEREST**

The foregoing Easement Agreement is hereby duly accepted by **WALL BROTHERS CONSTRUCTION, LLC** this 24 day of April, 2017.

By: [Signature]

Name: Neil Wall

Its: Manager

STATE OF UT )  
DAVIS COUNTY ) ss )

On this 24 day of April, 2017, personally appeared before me, the undersigned Notary Public, Neil Wall, who acknowledged to me that he is authorized to, and did in fact execute this Easement Agreement on behalf of **WALL BROTHERS CONSTRUCTION, LLC**.

[Signature]  
Notary Public  
STATE OF UTAH NOTARY PUBLIC  
JENNY WALL  
COMMISSION # 691763  
MY COMMISSION EXPIRES:  
03-23-2019

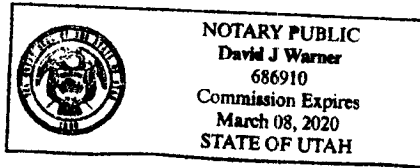
ACCEPTANCE OF EASEMENT HOLDER'S INTEREST

The foregoing Easement Agreement is hereby duly accepted by MICHAEL R. SMITH AND MELISSA SMITH this 8 day of Feb, 2019.

[Signature]
MICHAEL R. SMITH

[Signature]
MELISSA SMITH

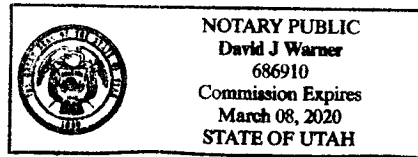
STATE OF Utah )
Weber COUNTY ) SS



On this 8 day of Feb, 2019, personally appeared before me, the undersigned Notary Public, MICHAEL R. SMITH, who acknowledged to me that he is authorized to, and did in fact execute this Easement Agreement.

[Signature]
Notary Public

STATE OF Utah )
Weber COUNTY ) SS



On this 8 day of Feb, 2019, personally appeared before me, the undersigned Notary Public, MELISSA SMITH, who acknowledged to me that She is authorized to, and did in fact execute this Easement Agreement.

[Signature]
Notary Public

**ATTACHMENTS**

**EXHIBIT A – Legal Description of Landowner’s Property**

**EXHIBIT B – Legal Description of Easement Holder’s Property**

**EXHIBIT C – Wall Commercial Subdivision-1<sup>st</sup> Amendment Plat Map**

## **Exhibit A**

### **LANDOWNER'S PROPERTY**

All of Lot 1, WALL COMMERCIAL SUBDIVISION, according to the Official Plat thereof, recorded in the Office of the County Recorder of WEBER County, State of Utah.

*The following is shown for informational purposes only:  
Tax Parcel No. 15-474-0001*



**Exhibit B**

**EASEMENT HOLDERS' PROPERTY**

ALL OF LOT 2, WALL COMMERCIAL SUBDIVISION, OGDEN CITY, WEBER COUNTY, UTAH. 15-474-0002

DESCRIPTION FOR SOUTH PART OF LOT 3, THE SOUTHERLY PORTION OF LOT 3, WALL COMMERCIAL SUBDIVISION, OGDEN CITY, WEBER COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS BEGINNING AT A POINT ON THE NORTH LINE OF 3300 SOUTH STREET BEING 892.57 FEET NORTH 89D50'28" WEST ALONG THE SECTION LINE AND 33.00 FEET NORTH 0D09'32" EAST TO SAID NORTH LINE AND 1465.62 FEET NORTH 89D50'28" WEST ALONG SAID NORTH LINE FROM THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 6 NORTH, RANGE 2 WEST, RUNNING THENCE NORTH 1D15'00" EAST 253.05 FEET, THENCE SOUTH 89D50'28" EAST 302.57 FEET, THENCE SOUTH 2D12'59" WEST 253.16 FEET TO THE SAID NORTH LINE OF 3300 SOUTH STREET, THENCE NORTH 89D50'28" WEST ALONG SAID NORTH LINE 298.39 FEET TO THE POINT OF BEGINNING. 15-474-0004

THE NORTHERLY PORTION OF LOT 3, WALL COMMERCIAL SUBDIVISION, OGDEN CITY, WEBER COUNTY, UTAH: MORE PARTICULARLY DESCRIBED AS; BEGINNING AT A POINT ON THE WEST LINE OF SAID WALL COMMERCIAL SUBDIVISION BEING 892.57 FEET NORTH 89D50'28" WEST ALONG THE SECTION LINE, 33.00 FEET NORTH 0D09'32" EAST TO THE NORTH LINE OF 3300 SOUTH STREET, 1765.62 FEET NORTH 89D50'28" WEST ALONG SAID NORTH LINE AND 253.05 FEET NORTH 1D15'00" EAST FROM THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 6 NORTH, RANGE 2 WEST; RUNNING THENCE NORTH 1D15'00" EAST 214.80 FEET; THENCE SOUTH 89D50'28" WEST 306.29 FEET; THENCE SOUTH 2D12'59" WEST 214.91 FEET; THENCE NORTH 89D50'28" WEST 302.57 FEET TO THE POINT OF BEGINNING. 15-474-0005

**Exhibit C**

**UNRECORDED PLAT**

**WALL COMMERCIAL SUBDIVISION – 1<sup>ST</sup> AMENDMENT**

