

WHEN RECORDED, MAIL TO:

Diamond Hall Development Partners, LLC
259 Riverbend Way, Suite 102
North Salt Lake, Utah 84054
Attn: Ryan Brimley

CTC 12145A-JP

APN: 47:340:0001
47:344:0002
47:344:0003

ROAD EASEMENT AGREEMENT

This Road Easement Agreement (this "**Agreement**") is made and entered into effective as of the 29 day of May, 2020 by and among Vista Heights Investments Lot 1, LLC, a Utah limited liability company ("**VHI 1**"), Diamond Hall Development Partners, LLC, a Utah limited liability company ("**DHDP**"), and Vista Heights Investments Lot 2, LLC, a Utah limited liability company ("**VHI 2**"). VHI 1, DHDP, and VHI 2, together with their successors and assigns (including the owners of any additional lots that may be created by the subdivision of Parcel 1), are each sometimes referred to herein individually as an "**Owner**" and collectively as the "**Owners.**"

A. VHI 1 is the owner of all of Lot 1 ("**Lot 1**") of New Vista Subdivision Plat "A", according to the official plat thereof, on file and of record in the Utah County Recorder's Office, Utah County, Utah, recorded February 15, 2018 as Entry No. 15293:2018.

B. DHDP is the owner of all of Lot 2 ("**Lot 2**") of New Vista Subdivision Plat "B", according to the official plat thereof, on file and of record in the Utah County Recorder's Office, Utah County, Utah, recorded July 19, 2018 as Entry No. 67827:2018.

C. VHI 2 is the owner of that portion of Parcel 1 of New Vista Subdivision Plat "B", according to the official plat thereof, on file and of record in the Utah County Recorder's Office, Utah County, Utah, recorded July 19, 2018 as Entry No. 67827:2018, as more particularly described on Exhibit A attached here ("**Parcel 1**").

D. Lot 1, Lot 2 and Parcel 1 (each a "**Lot**" and collectively, the "**Lots**") belong to a commercial development project (the "**Project**"), whereby the Lots have been, or are proposed to be, developed into commercial buildings in separate phases (each a "**Building**" and collectively, the "**Buildings**").

E. In connection with the Project, a road has been constructed or is in the process of being constructed across the westerly most portions of the Lot 1 and Lot 2 and the southerly most portion of Lot 1 connecting with Mountain Vista Parkway, a public street, on the south end, as legally described on Exhibit B attached hereto and depicted on Exhibit C attached hereto, for the purpose of providing the Owners access to loading docks, drive aisles, and other improvements located in the rear of the Buildings situated, or proposed to be situated, on each Lot, and other uses reasonably ancillary thereto (the "**Current Road**").

F. The Owners currently anticipate that the Current Road may be extended north across all or part of Parcel 1 to connect additional phases of the Project and to possibly connect with Ironton Boulevard, a public street, on the north end (the “*Road Extension*”).

G. VHI 1 has completed construction of that portion of the Current Road located on Lot 1 and DHDP has commenced construction of that portion of the Current Road located on Lot 2. VHI 2 (or its successors) currently anticipates completing construction of the Road Extension located on Parcel 1 in phases as Parcel 1 may be subdivided in the future.

H. Subject to the terms and conditions set forth herein, the Owners desire to establish reciprocal rights to the easements set forth below with respect to the Current Road and the Road Extension or portions thereof, if and when constructed, for the benefit of each Lot (and any additional lots that may be created by the subdivision of Parcel 1).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners agree as follow:

1. Road Easement.

1.1 Each Owner, as the owner of its respective Lot, hereby grants, conveys, transfers, and assigns to the other Owners, for the benefit of their respective Lots and their respective owners and all employees, tenants, guests, customers, contractors, suppliers, and other invitees thereof, a nonexclusive, perpetual easement of access, passage and use, both pedestrian and vehicular, over, upon and across the Current Road and the Extended Road or portions thereof (together, the “*Road*”), if and when completed, for the purpose of (i) obtaining ingress and egress to and from Mountain Vista Parkway, (ii) obtaining ingress and egress to and from Ironton Boulevard if the Road Extension connects thereto; (iii) access to such Owner’s respective Lot, (iv) pedestrian access related to such Owner’s respective business, (v) access necessary for the construction, maintenance, repair and replacement of improvements located on such Owner’s respective Lot, and (vi) uses reasonably ancillary thereto; *provided, that*, each Owner’s right to use any portion of the Road located north of such Owner’s Lot shall be effective only upon the connection of the Road Extension to Ironton Boulevard. Notwithstanding anything else herein to the contrary, no Owner shall have any obligation to construct any portion of the Road Extension or to connect any such portion of the Road Extension to Ironton Boulevard.

1.2 Each Owner shall maintain the Road on its respective Lot in good and safe condition and repair, reasonably free and clear from obstruction, debris, hazard and nuisance and in accordance with all applicable laws and regulations; *provided, however*, that any damage to the Road specifically caused by an Owner or invitee of a Lot in connection with the construction of improvements on such Lot shall be repaired by the Owner of such Lot, at such Owner’s cost. Promptly after the maintenance, repair or replacement of any portion of the Road as described herein, such Owner shall cause the Road to be restored to a substantially similar or better condition than existed immediately prior to the performance of such work. If any Owner fails so to maintain, repair or replace the portion of the Road for which such owner is responsible, which failure materially affects access to and from Mountain Vista Parkway and Ironton Boulevard (subject to the Road’s connection thereto), then any non-defaulting Owner shall have the right, but not the obligation, after thirty (30) days’ written notice to the defaulting Owner, to undertake necessary

and reasonable maintenance, repair and replacement of such portion of the Road at the defaulting Owner's sole cost and expense, for which purpose the repairing Owner, and its tenants and contractors, shall have full and free rights of ingress and egress, both pedestrian and vehicular, over, under and across such other Lot to the extent reasonably necessary to perform such maintenance, repair and replacement. No Owner may materially modify the course of any portion of the Road that has been constructed without the prior written consent of the other Owners, which consent shall not be unreasonably withheld, conditioned or delayed. No such modification, however, may in any event unreasonably interfere with the other Owners' use of the Road. Notwithstanding the foregoing, the Owner of Parcel 1 shall have no obligation to pave, improve or maintain the Road until such time as the Road Extension has been extended to such Owner's Lot.

2. Duration. The easements and each covenant and restriction set forth in this Agreement shall be perpetual.

3. Covenants run with Land. Each right and obligation in this Agreement (whether affirmative or negative in nature) (a) shall constitute a covenant running with the land; (b) shall benefit and bind every person having any fee, leasehold or other interest in any portion of a Lot to the extent that such portion is affected or bound by the easements or the covenant or restriction in question, or to the extent that such easement, covenant or restriction is to be performed on such portion; and (c) shall benefit and be binding upon any person whose title is acquired by conveyance, judicial foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise. Every person who owns, occupies or acquires any right, title, estate or interest in any portion of a Lot shall be conclusively deemed to have consented and agreed to the obligations and restrictions contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in such property.

4. Limit of Benefit. The easements created hereunder are limited in use for the benefit of each Lot and cannot be used by, or transferred for the benefit of, any other property. Nothing contained in this Agreement shall be deemed a gift or dedication of any portion of either Lot to the general public or for the public or for any public purpose.

5. Miscellaneous.

5.1 Should any Owner default in any of the covenants or restrictions herein contained, such defaulting Owner shall pay all costs and expenses, including reasonable attorney fees, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise. This obligation of the defaulting Owner to pay costs and expenses includes, without limitation, all costs and expenses, including reasonable attorney fees, incurred on appeal and in bankruptcy proceedings.

5.2 Subject to Section 5.4, below, in the event of a default by an Owner hereunder, the non-defaulting Owner shall have the right to prosecute any proceedings at law or in equity against the defaulting Owner, and to recover damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation of any of the terms, covenants, or conditions of this Agreement, or to obtain a decree to

compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. Subject to Section 5.4, below, all of the remedies permitted or available to an Owner under this Agreement or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

5.3 No waiver by any Owner of any default under this Agreement shall be effective or binding on such Owner unless made in writing by such Owner, and no such waiver shall be implied from any omission by an Owner to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers or any default under any provision of this Agreement shall not be deemed to be a waiver of any subsequent default in the performance or the same provision or any other term or provision contained in this Agreement.

5.4 It is expressly agreed that no breach of or event of default under this Agreement shall: (a) entitle any Owner to cancel, rescind, or otherwise terminate this Agreement; or (b) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of a Lot. This limitation shall not affect in any manner any other rights or remedies that an Owner may have hereunder by reason of any such breach or default.

5.5 The section and other headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

5.6 This Agreement shall apply to, inure to the benefit of and bind each Owner and all successors and assigns of each Owner's interest in such Owner's Lot. The rights and obligations conferred or imposed upon the Owners pursuant to this Agreement shall not be transferred or assigned to any other person, including a tenant of any Owner, except together with the transfer or conveyance of such Owner's respective Lot subject to the easements and the terms and conditions of this Agreement. Any Owner transferring its interest in such Owner's Lot shall be released from all further obligations under this Agreement arising from and after the effective date of such transfer or conveyance. Nothing contained herein shall, however, be construed to release any Owner from obligations accruing prior to the date of such transfer or conveyance, including obligations relating to any maintenance or repairs performed prior to such transfer.

5.7 This Agreement, together with all exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof.

5.8 No amendment of this Agreement shall be effective unless such amendment has been executed and notarized by the Owners of the Lots and further provided that any such amendment is recorded in the Official Records of the Recorder's Office of Utah County, Utah.

5.9 All notices, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, made, delivered or served, if in writing, addressed to the Owner of record of the applicable Lot or its registered agent, and (a)

delivered by any means if actually received; (b) delivered personally; or (c) sent by registered, certified mail, or receipted overnight service (by a reputable overnight company), postage prepaid addressed to such Owner at the address of the building located on the applicable Lot.

5.10 The Owners acknowledge their mutual intent and desire that the easements shall be and remain at all times senior and superior in title and priority to any mortgage, deed of trust or similar lien at any time encumbering any of the Lots.

5.11 This Agreement is not intended, nor shall it be construed, to create any third-party beneficiary rights in or for the benefit of any person who is not an Owner, including any tenants of the Owners, except as otherwise expressly provided to the contrary in this Agreement.


5.12 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document, with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and reattached to any other counterpart hereof.

[Remainder of page intentionally left blank. Signature page follows immediately.]

IN WITNESS WHEREOF, the Owners have executed this Road Easement Agreement the day and year first above written.

VISTA HEIGHTS INVESTMENTS LOT 1, LLC,
a Utah limited liability company

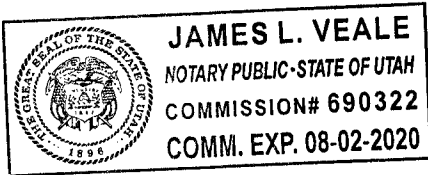
By: STS Diamond, LLC, its manager

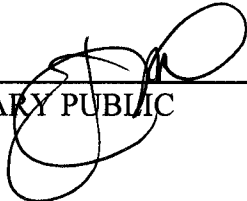
By: 

Thomas D. Stuart, Manager

STATE OF UTAH)
 :SS.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 28 day of May 2020 by Thomas D. Stuart, the manager of STS Diamond, LLC, which is the manager of Vista Heights Investments Lot 1, LLC, who acknowledged to me that the foregoing instrument was executed on behalf of said limited liability company.





NOTARY PUBLIC

IN WITNESS WHEREOF, the Owners have executed this Road Easement Agreement the day and year first above written.

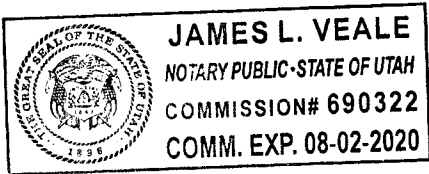
DIAMOND HALL DEVELOPMENT PARTNERS, LLC, a Utah limited liability company

By: STS Diamond, LLC, its manager

By: [Signature]
Thomas D. Stuart, Manager

STATE OF UTAH)
) :ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 20 day of May 2020 by Thomas D. Stuart, the manager of STS Diamond, LLC, which is the manager of Diamond Hall Development Partners, LLC, who acknowledged to me that the foregoing instrument was executed on behalf of said limited liability company.

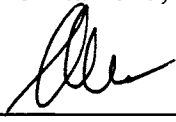


[Signature]
NOTARY PUBLIC

IN WITNESS WHEREOF, the Owners have executed this Road Easement Agreement the day and year first above written.

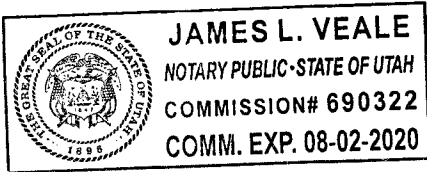
VISTA HEIGHTS INVESTMENTS LOT 2, LLC, a Utah limited liability company

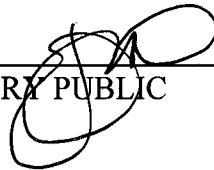
By: STS Diamond, LLC, its manager

By: 
Thomas D. Stuart, Manager

STATE OF UTAH)
)
) :SS.
COUNTY OF Salt Lake)

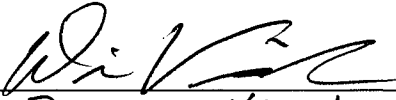
The foregoing instrument was acknowledged before me this 23 day of May 2020 by Thomas D. Stuart, the manager of STS Diamond, LLC, which is the manager of Vista Heights Investments Lot 2, LLC, who acknowledged to me that the foregoing instrument was executed on behalf of said limited liability company.




NOTARY PUBLIC

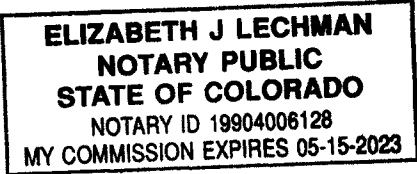
The undersigned, BOKF, NA dba BOK Financial (formerly known as BOKF, NA dba Colorado State Bank and Trust), hereby consents to the filing of this Road Easement Agreement in the office of the Utah County Recorder and agrees that its liens and security interests in Lot 1 with respect to any and all obligations of Vista Heights Investments Lot 1, LLC, a Utah limited liability company, now or hereafter existing under or in connection with that certain Construction Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, on file and of record in the Utah County Recorder's Office, Utah County, Utah, recorded March 23, 2018, as Entry No. 27853:2018, are and shall be subordinate to the rights and obligations set forth in this Agreement, and that such subordination is for the benefit of and enforceable by the Owners and any mortgagee with a recorded mortgage or assignment of leases and rent presently and hereinafter existing on the Lots.

BOKF, NA
dba BOK Financial

By: 
Name: Darin Visscher
Title: SVP

STATE OF Colorado)
 :SS.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 21st day of May 2020 by Darin Visscher, the SVP of BOKF, NA dba BOKF Financial and Trust, who acknowledged to me that the foregoing instrument was executed on behalf of said party.




NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION OF PARCEL 1

Parcel No. 47:344:0003

Parcel 1 of NEW VISTA SUBDIVISION PLAT "B", according to the official plat thereof, on file and of record in the Utah County Recorder's office, Utah County, Utah, recorded July 19, 2018 as Entry No. 67827:2018.

LESS AND EXCEPTING THEREFROM the following:

A parcel of land located in the Northeast quarter of Section 20, Township 7 South, Range 3 East, Salt Lake Base and Meridian, being further described as follows:

Beginning at a point being North 89°35'40" East 328.07 feet along the section line and South 2098.63 feet from the North quarter corner of said Section 20; thence North 22°01'50" West 843.93 feet; thence North 81°45'00" East 242.91 feet; thence South 24°21'00" East 651.88 feet; thence South 40°47'00" West 294.87 feet to the point of beginning.

EXHIBIT B**LEGAL DESCRIPTION OF ROAD COMPLETED
OR UNDER CONSTRUCTION ON LOT 1 AND LOT 2**

A parcel of land being a strip of land 58.00 feet in width lying entirely within Lot 1, New Vista Subdivision Plat "A" recorded February 15, 2018 as Entry No. 15293:2018 as Map # 15926 and Lot 2, New Vista Subdivision Plat "B" recorded July 19, 2018 as Entry No. 67827:2018 as Map # 16155 in the Office of the Utah County Recorder. Said parcel of land is located in the Southeast Quarter of Section 20, Township 7 South, Range 3 East, Salt Lake Base and Meridian. Said 58.00 foot wide strip of land lies 29.00 feet each side of the following described centerline:

Beginning at a point on the northeasterly boundary of said Lot 1, New Vista Subdivision Plat "A" recorded February 15, 2018 as Entry No. 15293:2018 as Map # 15926 in the Office of said Recorder, which is 78.23 feet N. 29°28'41" W. from the southeasterly corner of said Lot 1 also, being 1590.02 feet S. 00°41'57" E. and 397.87 feet West from the East Quarter of said Section 20; thence S. 65°35'46" W. 1022.64 feet; thence N. 22°01'50" W. 1020.30 feet to a northerly boundary line of said Lot 2, New Vista Subdivision Plat "B" recorded July 19, 2018 as Entry No. 67827:2018 as Map # 16155 in the Office of said Recorder and the **Point of Terminus**.

The sidelines of said strip of land to be lengthened or shortened to begin on said northeasterly line of Lot 1, New Vista Subdivision Plat "A" recorded February 15, 2018 as Entry No. 15293:2018 as Map # 15926 and end on said northerly line of said Lot 2, New Vista Subdivision Plat "B" recorded July 19, 2018 as Entry No. 67827:2018 as Map # 16155.

The above-described parcel of land contains 118,490 square feet in area or 2.720 acres, more or less.

EXHIBIT "B": By this reference, made a part hereof.

BASIS OF BEARING: S. 00°41'57" E. along the Section line between the East Quarter and the Southeast Corner of said Section 20, Township 7 South, Range 3 East, Salt Lake Base and Meridian.

EXHIBIT C

**DEPICTION OF ROAD COMPLETED
OR UNDER CONSTRUCTION ON LOT 1 AND LOT 2**

(See Attached)

PARCEL 1
NEW VISTA SUBDIVISION PLAT "B"
E67827:2018
MAP:16155

VISTA HEIGHTS INVESTMENTS LOT 2 LLC
47:344:0003

Point of Terminus

LOT 2
NEW VISTA SUBDIVISION PLAT "B"
E67827:2018
MAP:16155

DIAMOND HALL DEVELOPMENT
PARTNERS LLC.
47:344:0002

58.00
29.00

N22°0'15"W
1020.30

LOT 1
NEW VISTA SUBDIVISION PLAT "A"
E15293:2018
MAP:15926

VISTA HEIGHTS
INVESTMENTS LOT 1 LLC
47:340:0001

SOUTH MOUNTAIN VISTA PARKWAY

POB

29.00
58.00
S65°35'46"W 1022.64

IRONVISTA LLC
46:921:0001

LOT 1
MOUNTAIN VISTA BUSINESS
CENTER SUBDIVISION
E#72051:2015 MAP:14721

PARCEL 3
SPHL PROPERTIES LLC
47:358:0006

LOT 2
REDEVELOPMENT
AGENCY OF PROVO CITY
47:358:0002

NEW VISTA SOUTH SUBDIVISION
E#116225:2019 MAP:16809

LEGEND



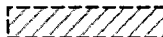
-  Lot Boundaries
-  Adjacent Parcel
-  58.0' Parcel of Land

EXHIBIT "C"

Lot 1, New Vista Sub Plat "A"
Lot 2, New Vista Sub Plat "B"

Assesor Parcel No:
47:340:0001 & 47:344:0002

Part of the Southeast Quarter
Sec. 20, T.7S., R.3E., S.L.B.&M.

PREPARED BY:



**CIVIL ENGINEERING
+SURVEYING**

3032 South 1030 West, Suite 202, Salt Lake City, Utah 84119

Date: May 12, 2020

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