

## RECIPROCAL EASEMENT AGREEMENT

THIS PARKING AGREEMENT (this "Agreement"), dated April 18, 2008, is between Reed E. Halladay and Christine Alene Smith Halladay, Trustees of the Halladay Family Trust (the "Halladay Trust"), and Hilltop Rentals, L.C., a Utah limited liability company ("Hilltop Rentals").

### RECITALS

A. Reed E. Halladay and Christine Alene Smith Halladay, as Trustees of the Halladay Family Trust, are the current owners of certain real property located in Orem, Utah identified as parcel number 48:042:0014, and further described in the attached Exhibit A ("Property A").

B. Hilltop Rentals, L.C., a Utah limited liability company, is the current owner of certain adjacent real property located in Orem, Utah identified as parcel number 19:024:0034, and further described in the attached Exhibit B ("Property B").

C. Hilltop Rentals is preparing to construct a new office building on Property B and desires to procure from Halladay Trust overflow parking space on Property A and a right-of-way easement across Property A to increase access to Property B.

D. Halladay Trust is preparing to build an apartment complex on Property A and desires to procure from Hilltop Rentals parking space on Property B for use after construction of the apartment complex on Property A has been completed.

E. Halladay Trust desires to grant a nonexclusive easement for Hilltop Rentals to use a portion of the parking on Property A in exchange for Hilltop Rentals granting a nonexclusive easement to Halladay Trust to use the parking on Property B. In addition, Halladay Trust desires to grant a nonexclusive right-of-way easement for Hilltop Rentals to use a portion of Property A to access Property B.

### AGREEMENT

THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

#### 1. Creation and Description of Easements.

(a) Easement on Property A. Halladay Trust hereby grants to Hilltop Rentals, L.C., its successors, assigns and permittees a nonexclusive easement to park upon the northernmost parking area of Property A, more particularly described on the

attached Exhibit C (the "Parking Area"), and for access over the driveways and walkways located on such Parking Area. Use of this Parking Area shall be limited to overflow parking by Hilltop Rentals and its permittees as is necessary due to the use of parking areas on Property B by Halladay Trust and its permittees.

(b) Easement on Property B. Hilltop Rentals hereby grants to Halladay Trust, its successors, assigns and permittees a nonexclusive easement to park upon the parking areas on Property B and for access over the driveways, walkways and parking areas on Property B. This easement shall be limited to use in a reasonable manner on weekends and from 6:00 p.m. to 6:00 a.m. on weekdays as additional parking for Property A.

(c) Right-of-Way Easement. Property B shall have appurtenant thereto and shall be benefitted by, and Property A shall be subject to and burdened by, a nonexclusive right-of-way and easement as described on the attached Exhibit D (the "Driveway Area"), for the purpose of vehicular and pedestrian ingress and egress between Property B and State Street, together with the right to repair and maintain such right-of-way and easement by Hilltop Rentals.

2. **Duration.** This Agreement and each easement and right-of-way and restriction set forth herein shall be perpetual.

3. **Indemnification.**

(a) Indemnification by Hilltop Rentals. Halladay Trust shall not be liable for any and all loss, cost, damage, liability or expense, including court costs and reasonable attorneys' fees, for injuries or damages to persons or property arising out of the use of Property A by Hilltop Rentals, any of their employees, business invitees, guests, owners or representatives. Hilltop Rentals agrees to indemnify and hold harmless Halladay Trust from and against any and all loss, cost, damage, liability or expense, including court costs and reasonable attorneys' fees, for injuries or damages to persons or property arising out of the use of Property A by Hilltop Rentals, any of their employees, business invitees, guests, owners or representatives.

(b) Indemnification by Halladay Trust. Hilltop Rentals shall not be liable for any and all loss, cost, damage, liability or expense, including court costs and reasonable attorneys' fees, for injuries or damages to persons or property arising out of the use of Property B by Hilltop Rentals, any of their employees, business invitees, guests, owners or representatives. Halladay Trust agrees to indemnify and hold harmless Hilltop Rentals from and against any and all loss, cost, damage, liability or expense, including court costs and reasonable attorneys' fees, for injuries or damages to persons or property arising out of the use of Property B by Halladay Trust, any of their employees, business invitees, guests, owners or representatives.

**4. Obligations**

(a) Maintenance of Parking Area. Halladay Trust shall be solely responsible for the upkeep and maintenance of the Parking Area located on Property A, including all costs and expenses associated with such maintenance. Hilltop Rentals shall have no obligation or expense for the use or maintenance of such Parking Area.

(b) Maintenance of Parking Premises. Hilltop Rentals shall be solely responsible for the upkeep and maintenance of the parking premises located on Property B, including all costs and expenses associated with such maintenance. Halladay Trust shall have no obligation or expense for the use or maintenance of Property B.

(c) Maintenance of Driveway Area. Hilltop Rentals shall be solely responsible for the upkeep and maintenance of the Driveway Area and shall be required to keep such right-of-way free from ice, snow, debris and obstructions to the extent deemed necessary by Halladay Trust.

**5. Alterations.** With the written approval of Hilltop Rentals, which shall not be unreasonably withheld or delayed, Halladay Trust may relocate the right-of-way and easement granted in Paragraph 1(c) and the configuration of access through Property A to Property B; provided, however, that such alteration, relocation or change shall provide Hilltop Rentals with access to Property B that is in all material respects, except for location, sufficient to provide Hilltop rentals with the rights of access equivalent to those initially granted herein. Any alteration or relocation proposed by Halladay Trust and approved by Hilltop Rentals shall be constructed at the sole expense of Halladay Trust.

**6. Term.** Halladay Trust and Hilltop Rentals' rights under this Agreement shall commence as of the date of completion of construction by Halladay Trust on Property A (but not later than December 31, 2008).

**7. Not a Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of fee title to any portion of Property A or Property B to or for the general public or for any public purposes whatsoever, it being the intention of the parties that this Agreement be strictly limited to the granting of the easements for the purposes expressed herein.

**8. Appurtenance to Parcels.** The right-of-way, easements and restrictions created hereby are appurtenances to the benefitted property and such right-of-way, easement or restriction may not be transferred, assigned or encumbered except as an appurtenance to such property.

**9. Covenants Run With Land.** The right-of-way, easements and restrictions contained in this Agreement shall (a) constitute covenants running with the land; (b) shall bind every person having any fee, leasehold or other interest in any portion of Property A or Property B at any time or from time to time to the extent that such

portion is affected or bound by the right-of-way, easement or restriction in question, or to the extent that such right-of-way, easement or restriction is to be performed on such portion; and (c) shall inure to the benefit of and be binding upon Halladay Trust and Hilltop Rentals, their respective successors and assigns, their respective tenants and subtenants, and the customers and invitees, guests and licensees of Halladay Trust and Hilltop Rentals, and their respective tenants and subtenants.

10. **Termination.** This Agreement and any right-of-way, easement or restriction contained herein may be terminated, extended, modified or amended as to the whole or any portion thereof upon proper recordation of a written document evidencing the same, executed and acknowledged by the parties in the Office of the Utah County Recorder. Notwithstanding anything contained in the foregoing sentence to the contrary, no such termination, extension, modification or amendment shall affect the rights of any mortgagee under a mortgage or any trustee or beneficiary under a deed of trust constituting a lien on any of the properties unless such mortgagee or beneficiary and trustee, as the case may be, consents to the same in writing.

11. **Governing Law.** Utah law will govern the validity and interpretation of this Agreement.

12. **Severability.** If any provision of this Agreement is for any reason determined by a court of competent jurisdiction to be invalid or unenforceable, the other portions of this Agreement will nevertheless continue in full force and effect.

13. **Headings.** The headings are for guidance only and have no significance in the interpretation of this Agreement.

14. **Entire Agreement.** This agreement contains the entire understanding between the Parties and supersedes any prior written or oral agreements respecting the subject matter of this agreement.

15. **Counterparts.** This agreement may be executed separately or independently in any number of counterparts, each and all of which shall be deemed to have been executed simultaneously and for all purposes to be one agreement. Any counterpart transmitted by either Party or at its direction shall be deemed to be and have the effect of an original counterpart of such Party.

IN WITNESS WHEREOF, the parties have signed and acknowledged this Agreement on the date first written above.

HALLADAY FAMILY TRUST

HILLTOP RENTALS, L.C.

By: *Reed E. Halladay*  
Reed E. Halladay, Trustee

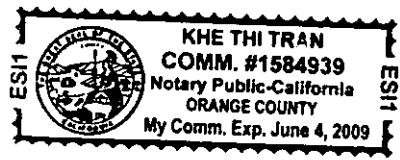
By: \_\_\_\_\_  
Nancy Young, Manager/Member

By: *Christine Alene Smith Halladay*  
Christine Alene Smith Halladay,  
Trustee

STATE OF *California* )  
COUNTY OF *Los Angeles* :SS.

The foregoing Reciprocal Easement Agreement was subscribed and acknowledged before me this *18th* day of *April*, 2008, by Reed E. Halladay and Christine Alene Smith Halladay, as Trustees of the Halladay Family Trust.

Witness my hand and official seal.



*Khe Thi Tran*  
Notary Public

STATE OF UTAH )  
COUNTY OF UTAH ) :SS.

The foregoing Reciprocal Easement Agreement was subscribed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Nancy Young, as Manager/Member of Hilltop Rentals, L.C., a Utah limited liability company.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

the extent that such right-of-way, easement or restriction is to be performed on such portion; and (c) shall inure to the benefit of and be binding upon Halladay Trust and Hilltop Rentals, their respective successors and assigns, their respective tenants and subtenants, and the customers, invitees, guests and licensees of Halladay Trust and Hilltop Rentals, and their respective tenants and subtenants.

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HALLADAY FAMILY TRUST

HILLTOP RENTALS, L.C.

By: \_\_\_\_\_  
Reed E. Halladay, Trustee

By:  \_\_\_\_\_  
Nancy Young, Manager/Member

By: \_\_\_\_\_  
Christine Alene Smith Halladay,  
Trustee

STATE OF )  
 )  
 ) :ss.  
COUNTY OF )

The foregoing Reciprocal Easement Agreement was subscribed and acknowledged before me this \_\_\_\_\_ day of March, 2008, by Reed E. Halladay and Christine Alene Smith Halladay, as Trustees of the Halladay Family Trust.

Witness my hand and official seal.

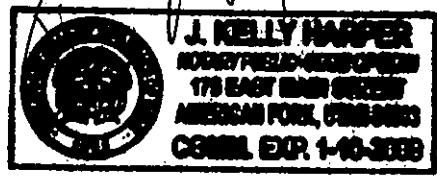
\_\_\_\_\_  
Notary Public

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

The foregoing Reciprocal Easement Agreement was subscribed and acknowledged before me this 15 day of March, 2008, by Nancy Young, as Manager/Member of Hilltop Rentals, L.C., a Utah limited liability company.

Witness my hand and official seal.

*J. Kelly Harper*  
\_\_\_\_\_  
Notary Public



**EXHIBIT A**Property A

Commencing at the Northeast corner of Lot 6, Orlean Terrace Subdivision, Orem, Utah, said point being located North  $00^{\circ}36'53''$  West along the Section line 997.96 feet and West 1003.69 feet from the Southeast corner of Section 26, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South  $00^{\circ}05'0''$  East along said Lot 6 199.31 feet; thence South  $89^{\circ}55'00''$  West along Terrace Drive 211.41 feet; thence along the arc of a 25.00 foot radius curve to the right 39.62 feet (chord bears north  $44^{\circ}41'00''$  West 35.60 feet); thence North  $00^{\circ}43'00''$  East along the Easterly right-of-way of Columbia Lane 443.05 feet; thence South  $87^{\circ}33'53''$  East parallel to and 0.20 feet South of an existing concrete wall 127.74 feet; thence North  $00^{\circ}09'07''$  East 53.01 feet to a point located 66.00 feet perpendicularly Southwesterly from the center line of State Street at engineers station 121+87.46 (Project #M-3069(5)); thence South  $30^{\circ}07'21''$  East along a chain link fence on the Westerly boundary of said State Street 365.05 feet to a point located 100.00 feet perpendicularly Southwesterly from the center line of said State Street at engineers station 118+24; thence South  $89^{\circ}37'00''$  West along said Orlean Terrace Subdivision 80.35 feet to the point of beginning.

Property Serial No. 48:042:0014



**EXHIBIT B**Property B

Commencing at a point which is a fence corner which point is North along the Section line 1273.10 feet and West 1103.79 feet from the Southeast corner of Section 26, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North  $86^{\circ}57'$  West along a fence line 123.35 feet to the apparent East boundary of Columbia Lane, Provo, Utah; thence North  $1^{\circ}33'$  East along said East boundary of Columbia Lane 63.58 feet to a point on a fence line extended; thence South  $89^{\circ}33'$  East along a fence line and a fence line extended 114.57 feet to a point which is North  $29^{\circ}30'$  West 0.90 feet from a U.S. Highway 91 State Road Right of Way Marker; thence South  $29^{\circ}30'$  East along the West boundary of U.S. Highway 91, 15.50 feet to a point on a fence line extended; thence South  $0^{\circ}46'$  West along a fence line and a fence line extended 55.74 feet to the point of beginning.

Property Serial No. 19:024:0034

**EXHIBIT C**

**DECLARATION OF PARKING EASEMENT**

**Parking Area**

The "Parking Area" identified in the foregoing Agreement is located in Orem, Utah County, State of Utah and is more particularly described as follows:

Commencing at a point located North 89°24'20" West along the Section line 1280.46 feet and North 1205.29 feet from the Southeast corner of Section 26, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence along the arc of a 3021.22 foot radius curve to the left 26.64 feet (chord bears North 03°22'35" West 26.64 feet); thence South 87°33'53" East 22.20 feet; thence North 02°26'07" East 18.00 feet; thence South 87°33'53" East 163.00 feet; thence South 02°26'07" West 44.50 feet; thence North 87°33'53" West 182.51 feet to the point of beginning.

**EXHIBIT D**

**DECLARATION OF RIGHT-OF-WAY EASEMENT**

**Driveway Area**

The "Driveway Area" identified in the foregoing Agreement is located in Orem, Utah County, State of Utah and is more particularly described as follows:

Commencing at a point located North 00°36'53" West along the Section line 1314.27 feet and West 1103.15 feet from the Southeast corner of Section 26, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 30°07'21" East along State Street 20.00 feet; thence North 88°18'02" West 10.09 feet; thence 00°09'17" East 17.00 feet to the point of beginning.

Area = 86 square feet.