

RAY QUINNEY & NEBEKER P.C
36 SOUTH STATE STREET
SUITE 1400
SALT LAKE CITY, UT 84111

COURTESY RECORDING

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Parcel No. 14:055:0158

DECLARATION OF EASEMENT

This Declaration of Easement ("Agreement") is made and entered into the 19th day of September, 2019, by L&M SMITH PROPERTIES, LLC, a Utah limited liability company organized and existing under the laws of the State of Utah ("L&M" or "Grantor") whose mailing address is 196 N 775 E American Fork, UT 84003.

RECITALS

A. L&M is the owner of certain real property located in Utah County, Utah, as more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Grove Station Subdivision").

B. Grove Station Subdivision is proposed to be comprised of Lot 1 ("Lot 1") and Lot 2 ("Lot 2") as depicted on the proposed Grove Station Subdivision Plat "A" attached hereto as Exhibit "B" and made a part hereof (the "Plat").

Pursuant to the terms of this Agreement, L&M, as Owner of Lot 1 and Lot 2 desires to grant an easement in favor of Lot 1 (the "Easement") in the easement area depicted on the Plat, which is described as a 30' Access, Culinary Water, & Sanitary Easement (the "Easement Area") and Grantor desire to further define the rights, obligations of the owners of Lot 1 and Lot 2 (the "Owners"), and to establish an agreement for the construction and maintenance of the improvements located within the Easement Area.

AGREEMENT/EASEMENT

1. **Grant of Easement.** Subject to the rights and restrictions set forth in this Agreement, Grantor hereby grants and conveys for benefit of Lot 1, together with its Owners, invitees, licensees, tenants, occupants, employees, agents, contractors and customers (collectively, the "Permittees"), the following:

- a. a perpetual, non-exclusive access easement for reasonable vehicular and pedestrian access, ingress and egress to from, upon, over and across the Easement Area for the purposes of accessing Lot 1;

b. a perpetual, non-exclusive utility easement over, under and across the Easement Area for the installation, operation, use, maintenance, repair, replacement and renewal of any and all utility lines and related facilities necessary for the use of Lot 1.

2. **Easement Runs with the Land.** The Easement shall run with the land as to all property benefitted and burdened thereby, including any partition or division of such property. The rights, covenants, and obligations contained in this Agreement shall bind, burden, and benefit the Owners and their respective successors, assigns, heirs, lessees, mortgagees, and beneficiaries under any deeds of trust.

3. **Purpose & Scope of Easement.** The scope of the Easement shall be as stated above. Nothing herein shall prohibit Grantor's use of the Easement Area.

4. **Covenants of Each Owner.** Each Owner irrevocably covenants to allow the continued use of the Easement hereby granted and agrees not to take any actions which would materially adversely affect the use of the Easement for the purposes described herein. Each Owner warrants it will allow access across the Easement at all times, and will not obstruct or block the use of the Easement at any time in any way; provided the Owner of Lot 2 reserves the right to reconfigure the Easement Area so long as such reconfiguration does not materially adversely affect the Owner of Lot 1's use of the Easement Area for the purposes described herein.

5. **Initial Easement Improvements.** The Owner of Lot 1 has the right to grade, pave, improve or modify the Easement Area for the purpose of exercising its rights of access, ingress and egress over and across the land subject to the Easement Area; provided, any grading, paving or improvements shall (i) be done according to plans and specifications reasonably approved by the Owner of Lot 2; (ii) shall be done in a good and workmanlike, lien free manner; (iii) shall be promptly completed after commencement thereof; and (iv) shall be completed within one (1) year of the date hereof.

6. **Easement Maintenance.** The Owner of Lot 1 shall maintain, repair and replace the Easement Area, including all improvements located therein including, but not limited to, resurfacing of the Easement Area, removing all papers, debris and other refuse from time to time, maintaining marking, directional signs, lines and striping as needed, and performing snow removal functions. The Easement Area shall be kept in good condition and repair and in accordance with all applicable laws, ordinances, rules, regulations, covenants, conditions and restrictions, and governmental requirements. All maintenance, repair and replacement obligations shall be performed in a prompt, diligent, and regular manner. Until such time, if ever, that the Owner of Lot 2 accesses the Easement Area, the Owner of Lot 1 shall maintain and repair the Easement Area at the Lot 1 Owner's sole cost and expense. Thereafter, the Owner of Lot 1 shall maintain and repair the Easement Area but the Lot 1 Owner and Lot 2 Owner shall share equally the reasonable cost of such maintenance and repairs. If the need for maintenance or repair of the Easement Area is caused through the willful or negligent acts of an Owner or its Permittees, the other Owner may cause such repairs to be made and the cost of such

maintenance or repair work shall be recoverable by the other Owner. If either Owner fails to abide by the covenants made in this section 7, then the other Owner shall have the right, but not the obligation, to maintain and repair the Easement Area and any and all improvements within the Easement Area and the other Owner shall indemnify and hold harmless for any and all costs and expenses associated with any such maintenance and/or repairs.

7. **Reapportionment of Costs.** Either Owner may request a reapportionment of payment obligations for maintenance and/or repairs of the Easement. If such a request is made, payment obligations shall be adjusted based upon usage and wear and tear. Unless otherwise agreed in writing, such usage shall be calculated based upon the relative square footage of building space occupied by persons or their representatives using the Easement.

8. **Insurance.** The Owner of Lot 1, at its cost, is required to maintain general liability insurance for the use by its and its Permittees of the Easement Area and must add the Owner of Lot 2 as an additional insured to its insurance policy.

9. **Indemnification.** Each Owner having rights with respect to the Easement granted in this Agreement shall indemnify and hold the other Owner harmless from and against all claims, liabilities, damages, penalties, costs, demands and expenses (including reasonable attorneys' fees and legal costs) relating to the breach of this Agreement or to accidents, injuries, loss or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of the other Owner or its Permittees except for any of the foregoing caused by the claiming Owner's gross negligence or willful misconduct.

10. **Non-Use.** No obligation arising from or out of this Agreement or any right granted under this Agreement, shall lapse because of non-use.

11. **Conformance with Governmental Requirements.** Each Owner shall cause all their respective uses of the Easement Area to be in conformance with all applicable federal, state, county, and municipal laws, ordinances, regulations, and requirements.

12. **Recording.** This Agreement shall be recorded in the official records of Utah County, Utah.

13. **Waiver.** Failure of either Owner at any time to require performance of any provision of this Agreement shall not limit such Owner's right to enforce such provision, nor shall any waiver of breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or waiver of such provision itself.

14. **Attorneys' Fees.** If a suit, action, or other proceeding of any nature whatsoever is instituted in connection with any controversy arising out of this Agreement or to enforce any rights hereunder, the prevailing party shall be entitled to recover its attorneys' fees and expenses and all other fees and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.

15. **Remedies.** In the event that either Owner fails to perform any obligation under this Agreement, the other Owner shall be entitled to require specific performance of such obligation, to obtain appropriate injunctive relief (without the necessity of showing inadequate remedies at law), to cure the default of such obligation and recover the costs thereof from the Owner breaching such obligation, or to pursue any other remedy available at law or equity. The remedies authorized throughout this Agreement are not mutually exclusive and may be maintained independently of each other.

16. **Amendment and Termination.** This Agreement may be amended and/or terminated only by a written agreement signed by representatives of both Owners, their successors, or assigns. Said amendment and/or notice of termination shall be recorded in the official records of Utah County, Utah.

17. **Counterparts.** This Agreement may be executed in counterparts.

18. **Acknowledgment.** By signing this Agreement, the Parties accept the terms of a shared access and cross access in the location outlined herein.

[Signatures Follow]

IN WITNESS WHEREOF, the Grantor has executed this Agreement as of the date set forth above.

L&M SMITH PROPERTIES, LLC

By: Marcia Ann Smith

Its: Manager

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

The foregoing instrument was acknowledged before me this 19th day of September 2019, by Marcia Ann Smith, who by me being duly sworn, did say that he/she is a representative of L&M Smith Properties, LLC, and that he/she is authorized to execute this Agreement.

Alexis Gruninger
Notary Public



EXHIBIT A

LEGAL DESCRIPTION FOR RECORDING

A PORTION OF THE NW1/4 OF SECTION 30, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SALT LAKE BASE & MERIDIAN, LOCATED IN PLEASANT GROVE, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THAT REAL PROPERTY DESCRIBED IN DEED ENTRY NO. 101760:2008 AND THE WESTERLY LINE OF THAT REAL PROPERTY DESCRIBED IN DEED ENTRY NO. 202549:2003 OF THE OFFICIAL RECORDS OF UTAH COUNTY LOCATED S89°36'10"W ALONG THE SECTION LINE 1,126.84 FEET AND SOUTH 321.69 FEET FROM THE NORTH ¼ CORNER OF SECTION 30, T5S, R2E, S.L.B.&M.; THENCE S0°19'00"E ALONG SAID DEED 202549:2003 AND THE EXTENSION OF, AND ALONG AN EXISTING FENCE LINE 603.46 FEET TO THE NORTH LINE OF THAT REAL PROPERTY DESCRIBED IN DEED ENTRY NO. 6212:2018 OF THE OFFICIAL RECORDS OF UTAH COUNTY; THENCE N89°57'00"W ALONG SAID DEED 272.00 FEET TO THE EASTERLY LINE OF 2000 WEST AS DESCRIBED IN DEED ENTRY NO. 65490:2008; THENCE ALONG SAID ROADWAY THE FOLLOWING 2 (TWO) COURSES AND DISTANCES: N10°56'26"W 167.42 FEET; THENCE ALONG THE ARC OF A 5,944.00 FOOT RADIUS CURVE TO THE RIGHT 203.79 FEET THROUGH A CENTRAL ANGLE OF 1°57'52" (CHORD: N9°57'30"W 203.78 FEET) TO THE SOUTHEASTERLY LINE OF THAT REAL PROPERTY DESCRIBED IN DEED ENTRY NO. 67352:2008 OF THE OFFICIAL RECORDS OF UTAH COUNTY; THENCE N30°33'29"E ALONG SAID DEED 275.67 FEET TO THE SOUTH LINE OF SAID DEED 101760:2008; THENCE N89°47'00"E ALONG SAID DEED 195.52 FEET TO THE POINT OF BEGINNING.

CONTAINS: 4.01+/- acres

EXHIBIT B

Grove Station Subdivision Plat "A"

[See Following Page]

