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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
11/04/2021 01:14 PM
FEE \$40.00 Pgs: 9
DEP RTT REC'D FOR C W URBAN

AFTER RECORDING, RETURN TO:

CW URBAN, LLC
Attn: Urban Development
1222 W. Legacy Crossing Blvd., STE 6
Centerville, UT 84014

Parcel No.: A portion of 02-026-0071
03-001-0214

**TERMINATION OF EXISTING EASEMENT AND GRANT OF
ACCESS AND UTILITY EASEMENT AGREEMENT**

THIS TERMINATION OF EXISTING EASEMENT AND GRANT OF ACCESS AND UTILITY EASEMENT AGREEMENT (the "**Agreement**") is made and entered into as of the date set forth on the signature page by and between **Hadley Properties, LLC**, a Utah limited liability company, and assigns, successors, or heirs ("**Grantor**") and **CW Urban, LLC**, a Utah limited liability company, and assigns, successors, or heirs ("**Grantee**") (the Parties may be referred to herein collective as the "**Parties**" or each individually as a "**Party**").

RECITALS

WHEREAS, Grantor is the fee simple owner of that certain parcel real property located in Centerville City ("**City**"), Davis County ("**County**"), State of Utah more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference ("**Grantor Property**");

WHEREAS, Grantee is the fee simple owner of those certain parcels real property located adjacent to the Grantor Property and in the City, and more particularly described on **Exhibit B** attached hereto and incorporated herein by this reference ("**Grantee Property**");

WHEREAS, Grantor and Grantee initially entered into that certain Access and Utility Easement Agreement recorded in the office of the Davis County Recorder on September 20, 2021, as Entry No. 3420190, in Book 7847, on Pages 2838-2845 (the "**Initial Utility Easement**");

WHEREAS, the Initial Utility Easement contained an incorrect description of the easement area and did not clearly establish that Grantor granted to Grantee an easement through the existing utility infrastructure on the Grantor Property to connect to the City's utility infrastructure in the Frontage Road;

WHEREAS, Grantee desires to construct utility infrastructure from the Grantee Property to the existing detention basin located on the Grantor Property (the "**Grantee Utility Improvement**");

WHEREAS, Grantee desires to connect the Grantee Improvement to Grantor's existing utility infrastructure located on the Grantor Property to discharge storm drain runoff through the Grantor Property to the City's infrastructure in the Frontage Road located West and adjacent to the Grantor Property (the "**Utility Improvement Connection**"); and

WHEREAS, Grantor desires to grant to Grantee a non-exclusive access and utility easement in perpetuity across a portion of the Grantor Property to enable Grantee to (i) construct the Grantee Utility Improvement, and (ii) connect to and utilize the Utility Improvement Connection for the discharge of storm

drain runoff from the Grantee Property through the Grantor Property to the existing City infrastructure in the Frontage Road.

NOW, THEREFORE, for and in consideration of the terms and conditions set forth herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Termination of Initial Easement. Upon mutual execution and recordation of this Agreement in the office of the Davis County Recorder, the Initial Easement shall be deemed automatically terminated, abandoned, vacated, and have no further force nor effect without the need of either party thereto to execute and record any additional instruments.

2. Grant and Purpose of Easement. Grantor hereby grants and conveys a non-exclusive and perpetual access and utility easement (the "**Easement**") upon, over, under, through, and across the Grantor Property (the "**Easement Area**") for the construction of the Grantee Utility Improvement and the use of Utility Improvement Connection for the discharge of storm drain runoff from the Grantee Property through the Grantor Property to the existing City infrastructure in the Frontage Road. Grantor additionally grants and conveys to Grantee, or Grantee's successors, heirs, assigns, agents, contractors, subcontractors, or any other similarly situated entity or person necessary for the construction and connection of the Grantee Utility Improvement and the Utility Improvement Connection (collectively, the "**Grantee Parties**"), the right of vehicular and pedestrian ingress and egress upon the Grantor Property for the purpose of the location, construction, maintenance, use, installation, removal, and repair of the Utility Improvement. The Easement Area is further described and graphically depicted on **Exhibit C** attached hereto and incorporated herein by this reference.

3. Shared, Non-exclusive Use. Exclusive use of the Easement Area is not hereby granted by the Grantor. Instead, Grantor expressly reserves to itself, and any and all subsequent owners, users, licensees, invitees, guests, and other related parties, the full and unrestricted right to use the Easement Area, subject to the permitted use granted to Grantee under Section 2 above.

4. Easement Area; Maintenance and Repairs. As soon as commercially reasonably following completion of the Grantee Utility Improvement, Grantee and the Grantee Parties, shall restore the Easement Area to the same or better condition as existed prior to installation of the Grantee Improvement. Upon completion and connection of the Grantee Improvement to the Utility Improvement Connection, Grantee shall be obligated to perform all maintenance and repair activities related to the Grantee Improvement and otherwise confirm that said Grantee Improvement remains in a good condition and in compliance with applicable City, County, and other related regulations.

5. Default. A defaulting party (the "**Defaulting Party**") shall have ten (10) days following receipt of written notice from the other Party (the "**Nonbreaching Party**"), which notice shall specifically describe the default(s) to cure the same (the "**Cure Period**"); provided, however, if such default cannot be cured prior to expiration of the Cure Period, then so long as the Defaulting Party commences such cure within the Cure Period and thereafter diligently pursues the same to completion, the Cure Period shall automatically be extended for a reasonable period of time (not to exceed sixty (60) days after the original notice) to permit the Defaulting Party to cure the same. Failure to cure any described default(s) shall entitle the Nonbreaching Party to any remedies available at law or in equity including, but not limited to, specific performance, reasonable expenses, attorney fees and costs.

6. Waiver. The failure of a Party to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein shall not be deemed a waiver of any rights or remedies

that such Party may have, and shall not be deemed a waiver of any subsequent breach or default in any of the terms, covenants, conditions or agreements contained herein by the same or any other Party.

7. No Joint Venture; Merger. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership or any similar relationship between the Parties. This Agreement contains the entire agreement and understanding between the Parties and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

8. Amendment and Termination. Except for a permitted assignment as set forth in Section 10 below, this Agreement may not be amended or modified except with the written consent of the Parties duly recorded in the office of the Davis County Recorder.

9. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. This Agreement shall be recorded in the records of the Davis County Recorder.

10. Successors and Assigns; Run with the Land. All of the provisions in this Agreement, including the benefits and burdens, shall be and are binding upon and inure to the benefit of the successors and assigns of the Parties hereto. Grantee shall have the unilateral right to assign its rights, duties, and obligations to a party under common control and ownership with Grantee. All obligations of each Party under this Agreement, if more than one person or entity is the successor or assign of such Party, shall be jointly and severally binding on each such person or entity. The covenants agreed to and the restrictions imposed herein shall continue as a servitude running in perpetuity with the Grantor and Grantee's respective properties and shall survive any death or termination of any Party's existence. The easements, agreements, duties, responsibilities, and covenants herein contained shall be easements and covenants running with the land.

11. No Third-Party Beneficiaries. Nothing in this Agreement is intended to create an enforceable right, claim, or cause of any by any third-party against any Party to this Agreement.

12. Authority of Signatory. Each person executing this Agreement certifies that he or she is duly authorized to execute this Agreement on behalf of the Party for which he or she is signing, and that the person has the authority to bind said Party to the terms of this Agreement.

13. Independent Provisions. If any provision herein is held invalid or unenforceable by a court of competent jurisdiction, such a finding shall not affect the validity of the remainder of the Agreement, the Parties hereto hereby stipulate that all provisions contained herein are severable and independent.

14. Counterparts. This Agreement and any originals of exhibits referred to herein may be executed in two (2) or more counterparts, each of which (when the original signatures are affixed together with the applicable acknowledgement) shall be an original but all of which shall constitute one and the same instrument.

15. Miscellaneous.

a. The paragraph and other headings contained in this Agreement are for purposes of reference only and shall not limit, expand, or otherwise affect the construction of any of the provisions of this Agreement;

b. Whenever the context reasonably permits, the singular shall include the plural, the plural shall include the singular, and the whole shall include any part thereof. Further, the masculine gender shall include the female gender and neutral, and vice versa;

c. The recital paragraphs set forth above are expressly incorporated in this Agreement by this reference;

d. This Agreement represents the wording selected by the Parties to define the Agreement and no rule of strict construction shall apply against either Party. Each Party represents that it has had or has been advised to have the representation of its legal counsel in connection with the preparation of this Agreement. The words "hereof," "hereto," "herein," and "hereunder" are words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

e. References herein to Paragraphs and Exhibits shall be construed as references to Paragraphs and Exhibits of this Agreement, and any amendments hereto, unless the context otherwise requires.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Grantor has executed this Agreement as of the 3rd day of November, 2021.

GRANTOR

Hadley Properties, LLC,
a Utah limited liability company

By: _____

Name: SHARIF R. HADLEY

Title: MGR Member ✓

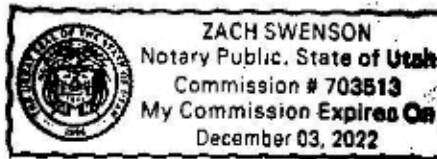
STATE OF UTAH)

COUNTY OF Davis)

On this 3rd day of November, 2021, personally appeared before me Sharif Hadley, to me known to be the Managing Member of Hadley Properties, LLC, a Utah limited liability company, the limited liability company that executed the within the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that he / she was duly authorized to execute said instrument on behalf of said limited liability company.

Witness my hand and official seal.

Zach Swenson
(notary signature)



(seal)

IN WITNESS WHEREOF, the Grantee has executed this Agreement as of the 4th day of November, 2021.

GRANTEE

CW Urban, LLC,
a Utah limited liability company

By: *Darlene Carter*

Name: Darlene Carter

Title: Manager

STATE OF UTAH)
 §
COUNTY OF DAVIS)

On this 4th day of November, 2021, personally appeared before me Darlene Carter, to me known to be the Manager of CW Urban, LLC, a Utah limited liability company, the limited liability company that executed the within the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that she was duly authorized to execute said instrument on behalf of said limited liability company.

Witness my hand and official seal.

Stephanie Heiner
(notary signature)

(seal)



EXHIBIT A
Grantor Property

BEG AT A PT N 89°40'15" E ALG THE SEC LINE 687.285 FT & N 0°03'10" E 35.40 FT FR THE NW COR OF SEC 18-T2NR1E, SLM; & RUN TH S 89°40'15" W 342.20 FT TO THE E'LY LINE OF THE UTAH STATE HWY DEPARTMENT FRONTAGE RD; TH N 2°51'00" E ALG SD E LINE 391.68 FT; TH S 89°06'27" E 466.89 FT; TH S 0°03'10" W 291.11 FT; TH S 89°40'15" W 143.77 FT; TH S 0°03'10" W 90.0 FT TO THE POB.

CONT. 3.937 ACRE

Parcel No. 02-026-0071 (for reference purposes only)

EXHIBIT B
Grantee Property

03-001-
BEG ON N LINE OF A STR 564.68 FT, M/L, S & 757.285 FT E FR THE NW COR OF SEC 18-T2N-R1E, SLM; TH E ALG N LINE STR 58 FT, M/L, TO E LINE OF PPTY CONV IN 746-632; TH N 441.98 FT, TH W 128 FT; TH S 308.68 FT, TH E 70 FT, TH S 133 FT TO THE POB. CONT. 1.085 ACRES. ALSO, BEG ON THE N LINE OF PORTERS LANE AT A PT N 89°40' E ALG THE SEC LINE 831.05 FT & S 0°03'10" W 564.74 FT FR THE NW COR OF SEC 18-T2N-R1E, SLM; & RUN TH ALG BNDRY LINE AGMT 1833-298 N 0°03'10" E 690.14 FT TO THE N LINE OF GRANTORS LAND; TH W 143.56 FT, TH S 148.00 FT; TH E 114.49 FT; TH S 543.98 FT TO THE N LINE OF PORTERS LANE; TH E 15.03 FT TO THE POB. CONT 0.70 ACRES. ALSO, BEG AT A PT WH IS N 89°40'15" E 831.05 FT ALG THE SEC LINE & S 0°03'10" W 38.36 FT ALG A BNDRY LINE AGMT LINE & S 89°40'15" W 29.02 FT FR THE NW COR OF SEC 18-T2N-R1W (S/B E), SLM; & RUN TH S 0°03'10" W 102.00 FT; TH S 89°40'15" W 113.81 FT TO THE GRANTOR'S W PPTY LINE; TH N 0°19'45" W 102.00 FT ALG SD LINE; TH N 89°40'15" E 114.49 FT TO THE POB. TOGETHER WITH A DESC ACCESS EASEMENT. CONT 0.27 ACRES. TOTAL ACREAGE 2.055 ACRES. (NOTE: THIS REMAINING LEGAL WAS WRITTEN IN THE DAVIS COUNTY RECORDER'S OFFICE FOR I.D. PURPOSES. IT DOES NOT REFLECT A SURVEY OF THE PROPERTY.)

CONT. 2.055 ACRE

Parcel No. 03-001-0214 (for reference purposes only)

EXHIBIT C
Easement Area

PREPARED BY: T.HUNT 10-08-2021 02 - 026 - 0071

15' STORM DRAIN EASEMENT LEGAL DESCRIPTION

BEGINNING AT A POINT WHICH IS NORTH 89°49'15" EAST 687.29 FEET ALONG THE SECTION LINE AND NORTH 00°03'10" EAST 115.41 FEET FROM THE NORTHWEST CORNER OF SECTION 18, TOWNSHIP 2 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH AND RUNNING:

NORTH 00°03'10" EAST 9.84 FEET;
THENCE NORTH 89°40'15" EAST 11.53 FEET;
THENCE NORTH 50°07'14" WEST 32.23 FEET;
THENCE SOUTH 68°33'45" WEST 145.91 FEET;
THENCE SOUTH 89°38'30" WEST 191.12 FEET;
THENCE SOUTH 02°51'00" WEST 15.02 FEET;
THENCE NORTH 89°38'30" EAST 194.75 FEET;
THENCE NORTH 68°33'45" EAST 139.81 FEET;
THENCE SOUTH 50°07'14" EAST 20.84 FEET TO THE POINT OF BEGINNING.

CONTAINS 5,379 SQUARE FEET OR 0.123 ACRES MORE OR LESS.

