WHEN RECORDED, PLEASE RETURN TO: Hotel Moab LLC 1018 W. Atherton Dr. Taylorsville, UT 84123 Ent 538610 Bk 904 Pg 162 - \S Date: 18-Sep-2020 11:55 AM Fee: \$40.00 ACH Filed By: JAC JOHN CORTES, Recorder GRAND COUNTY CORPORATION For: Cottonwood Title Insurance A Recorded Electronically by Simplifile

Parcel Nos. 01-0001-0148, 01-0001-0127, 01-0001-0158

EASEMENT AGREEMENT (Access Drive and Parking Area)

THIS EASEMENT AGREEMENT (the "Agreement"), dated as of the 18th day of September, 2020, is executed by and between Hotel Moab II, LLC, a Utah limited liability company ("Grantor"), whose address for the purpose hereof is 1018 W. Atherton Dr., Taylorsville, Utah 84123, and Hotel Moab LLC, a Utah limited liability company ("Grantee"), whose address for the purpose hereof is 1018 W. Atherton Dr., Taylorsville, Utah 84123.

RECITALS:

- A. Grantor owns that certain real property located in Grand County, State of Utah, more particularly described in Exhibit "A" attached hereto (the "Burdened Parcel").
- B. Grantee owns that certain real property located in Grand County, State of Utah, more particularly described in Exhibit "B" attached hereto (the "Benefitted Parcel", and together with the Burdened Parcel, the "Parcels"). The Parcels are located adjacent to each other.
- C. A hotel is operated on the Benefitted Parcel, and a portion of the access drive and parking area improvements (the "Encroaching Improvements") associated with the hotel are located on the Burdened Parcel.
- D. Grantor and Grantee are entering into this Agreement in order to establish of record such easements as are necessary for the Benefitted Parcel to continue utilizing the Encroaching Improvements.

AGREEMENT:

NOW, THEREFORE, for the foregoing purposes, and in consideration of the reciprocal benefits to be derived from the right-of-way, easement and restrictions described herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby confirmed, Grantor and Grantee hereby agree as follows:

1. Grant of Access and Parking Easement. Grantor hereby grants to Grantee a nonexclusive perpetual right-of-way and easement (collectively, the "Access and Parking Easement") over and across that portion of the Burdened Parcel upon which Encroaching

Improvements are located, as more particularly described in Exhibit "C" attached hereto, and as generally depicted on Exhibit "C" attached hereto for the purpose of vehicular and pedestrian access and for vehicular parking. The Access and Parking Easement shall include the express right to maintain, repair and replace an access driveway and parking areas over and across the Burdened Parcel for purposes of facilitating the rights of access and parking granted herein, as the Owner (defined below) of the Benefitted Parcel shall determine. No Owner shall obstruct, block or restrict access to or use of the Access and Parking Easement, or permit any such obstruction to remain.

- 2. <u>Modification</u>. Except as expressly set forth herein, this Agreement and any right-of-way, easement or restriction contained herein may be terminated, modified or amended, but only upon proper recordation, in the Office of the Grand County Recorder, of a written document evidencing the same, executed and acknowledged by the Owner of the Burdened Parcel and the Owner of the Benefitted Parcel.
- 3. <u>Not a Public Dedication</u>. Nothing contained in this Agreement shall be deemed to be a gift or dedication of fee title to any portion of the Burdened Parcel to or for the general public or for any public purposes whatsoever, it being the intention of Grantor and Grantee that this Agreement be strictly limited to granting the Access and Parking Easement for the purposes expressed herein.
- 4. Covenants Run With Land. The rights-of-way, easements and restrictions contained in this Agreement (whether affirmative or negative in nature): (a) shall create equitable servitudes upon the Burdened Parcel in favor of the Benefitted Parcel; (b) shall constitute covenants running with the land; (c) shall bind every person having any fee, leasehold or other interest in any portion of the Burdened Parcel 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 (d) shall inure to the benefit of and be binding upon Grantor and Grantee and their successors and assigns as Owners of the Parcels (or either of them), their respective tenants, subtenants and concessionaires, and their respective tenants, subtenants and concessionaires.
- 5. <u>Definitions, Titles and Captions</u>. Paragraph titles or captions to this Agreement are for convenience only and shall not be deemed to be part of this Agreement and in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts of this Agreement. Capitalized terms shall have the meaning set forth in the paragraphs set forth above. The term "Owner" shall mean the person or entity who is the record holder of legal title to the fee simple interest in the applicable Parcel as reflected in the records of the Grand County Recorder. If there is more than one record holder of legal title to a Parcel, each record holder will be an Owner. The term "Owner" includes Grantor and/or Grantee to the extent that Grantor and/or Grantee are the record holder(s) of legal title to the fee simple interest in a Parcel. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" will not mean or include a mortgage or a beneficiary or trustee under a deed of trust unless and until such person or party has acquired title by foreclosure or deed in lieu of foreclosure.

- 6. <u>Pronouns and Plurals</u>. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. Each of the foregoing genders and plurals is understood to refer to a corporation, partnership or other legal entity when the context so requires.
- 7. <u>Applicable Law.</u> This Agreement shall be construed in accordance with and governed by the laws of the State of Utah.
- 8. <u>Severability</u>. In the event that any provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other provision herein contained. If such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
 - 9. Counterparts. This Agreement may be executed in one or more counterparts.

[signature page follows]

"GRANTOR"
HOTEL MOAB II, LLC a Utah limited liability company
MG
Kevin S. Garn, Manager
Michael II Dymum Monagon
Michael H. Bynum, Manager
David Webster Sr., Manager

David Webster Jr., Manager

"GRANTOR"

HOTEL MOAB II, LLC a Utah limited liability company

Kevin S. Garn, Manager

Michael H. Bynum, Manager

David Webster Sr., Manager

David Webster Jr., Manager

HOTEL MOAB II, LLC
a Utah limited liability company

Kevin S. Garn, Manager

Michael H. Bynum, Manager

David Webster Sr., Manager

David Webster Jr., Manager

"GRANTOR"

HOTEL MOAB II, LLC a Utah limited liability company

Kevin S. Garn, Manager

Michael H. Bynum, Manager

David Webster Sr., Manager

David Webster Jr., Manager

STATE OF UTAH)
COUNTY OF DOWIS	:ss)
	cknowledged before me this 15 day of fanager of Hotel Moab II, LLC, a Utah limited liability instrument. Many Many Many Many Public Many
Notary Public, State of Utah Commission # 691579 My Commission Expires On October 26, 2020	NOTARY PUBLIC
STATE OF UTAH)
COUNTY OF	:ss)
The foregoing instrument was ac September, 2020, by Michael H. Bynum liability company, the Grantor under the f	, as Manager of Hotel Moab II, LLC, a Utah limited
STATE OF UTAH	,
STATE OF CTAIL	;ss
COUNTY OF)
The foregoing instrument was as September, 2020, by David Webster Sr. liability company, the Grantor under the f	, as Manager of Hotel Moab II, LLC, a Utah limited
	NOTARY PUBLIC
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COUNTY OF	:ss)
The foregoing instrument was as September, 2020, by David Webster Jr. liability company, the Grantor under the f	, as Manager of Hotel Moab II, LLC, a Utah limited
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STATE OF UTAH)
COUNTY OF	;ss)
The foregoing instrument was September, 2020, by Kevin S. Garn, company, the Grantor under the foreg	as acknowledged before me this day of as Manager of Hotel Moab II, LLC, a Utah limited liability going instrument.
	NOTARY PUBLIC
STATE OF UTAH COUNTY OF <u>Grand</u>	VALERIE M GARDNER Notary Public - State of Utah Comm. No. 707518 My Commission Expires on Aug 1, 2023
	as acknowledged before me this 14th day of vnum, as Manager of Hotel Moab II, LLC, a Utah limited the foregoing instrument. NOTARY PUBLIC
STATE OF UTAH) :ss
COUNTY OF)
The foregoing instrument was September, 2020, by David Webster liability company, the Grantor under	as acknowledged before me this day of r Sr., as Manager of Hotel Moab II, LLC, a Utah limited the foregoing instrument. NOTARY PUBLIC
STATE OF UTAH) :ss
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The foregoing instrument was September, 2020, by David Webste liability company, the Grantor under	as acknowledged before me this day of T., as Manager of Hotel Moab II, LLC, a Utah limited the foregoing instrument.
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STATE OF UTAH)	No. 18-172 /*
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COUNTY OF <u>Salt Lake</u>	:ss)
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	Heaku Pekesee NOTARY PUBLIC

HEATHER PETERSON Notary Public - State of Utah Comm. No. 699951 My Commission Expires on May 27, 2022

"GRANTEE"

HOTEL MOAB LLC a Utah limited liability company

Kevin S. Garn, Manager

Michael H. Bynum, Manager

David Webster Sr., Manager

David Webster Jr., Manager

"GRANTEE"

HOTEL MOAB LLC a Utah limited liability company

Kevin S. Garn, Manager

Michael H. Bynum, Manager

David Webster Sr., Manager

David Webster Jr., Manager

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HOTEL MOAB LLC a Utah limited liability company

Kevin S. Garn, Manager

Michael H. Bynum, Manager

David Webster Sr., Manager

David Webster Jr., Manager

"GRANTEE"
HOTEL MOAB LLC a Utah limited liability company
Kevin S. Garn, Manager
Michael H. Bynum, Manager
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David Webster Jr., Manager

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The foregoing instrument was ack September, 2020, by David Webster Jr., liability company, the Grantor under the fo	, as Manager of Hotel Moab LLC, a Utah limited
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STATE OF UTAH)
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The foregoing instrument w	vas acknowledged before me this day of n, as Manager of Hotel Moab LLC, a Utah limited liability egoing instrument.
	NOTARY PUBLIC
STATE OF UTAH COUNTY OF <u>Grand</u>	YALERIE M GARDNER Notary Public - State of Utah Comm. No. 707518 My Commission Expires on Aug 1, 2023
The foregoing instrument w September, 2020, by Michael H. liability company, the Grantor under	was acknowledged before me this 1441 day of Bynum, as Manager of Hotel Moab LLC, a Utah limited r the foregoing instrument.
STATE OF UTAH	NOTARY PØBLIC) :ss
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The foregoing instrument v September, 2020, by David Webster company, the Grantor under the fore	vas acknowledged before me this day of r Sr., as Manager of Hotel Moab LLC, a Utah limited liability egoing instrument.
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The foregoing instrument v September, 2020, by David Webs liability company, the Grantor under	was acknowledged before me this day of ster Jr., as Manager of Hotel Moab LLC, a Utah limited or the foregoing instrument.
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	NOTARY PUBLIC	

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STATE OF UTAH) :ss
COUNTY OF <u>Salt Lake</u>)
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HEATHER PETERSON
Notary Public - State of Utah
Comm. No. 699951
My Commission Expires on
May 27, 2022

Hearth Pekesser NOTARY PUBLIC

LENDER CONSENT AND SUBORDINATION

The undersigned, as holder of the beneficial interest in that certain Construction Deed of Trust and Fixture Filing recorded on March 9, 2016, as Entry No. 511076 of the official records of Grand County, Utah, including any amendments thereto (the "Deed of Trust"), made by ZB, N.A. dba Zions First National Bank, as the Lender and Beneficiary therein, which Deed of Trust encumbers the Burdened Parcel (as defined in the Easement Agreement to which this Lender Consent and Subordination is attached), does hereby consent to the execution and delivery of such Easement Agreement by Hotel Moab II, LLC and does unconditionally subordinate the lien of the Deed of Trust to such Easement Agreement.

of the Deed of Trust to Such Eusement Agreement.
Executed this and day of Systember, 2020.
ZB, N.A. dba Zions First National Bank
Ву:
Name: Andrew Hulse
Title: Seniar Vice President
STATE OF UTAH)
STATE OF UTAH) ss COUNTY OF Washing fon
On this 2 day of Sept 2020, Andrew Hulse, who, being by me duly sworn, did say that he/she is the Sn. UP of ZB,
who, being by me duly sworn, did say that he/she is the Sn. U D of ZB,
N.A. dba Zions First National Bank, and that the foregoing Lender Consent and Subordination
was signed on behalf of said company, and acknowledged said instrument to be the free act and

NOTARY PUBLIC
Penny Lynn Shelley
701263
My Commission Expires
08/20/2022
STATE OF UTAH

deed of said company.

Notary Public

Print Name: Enny Lynn Shelley

My commission expires: 8/20/22

Exhibit A to Easement Agreement

LEGAL DESCRIPTION OF BURDENED PARCEL

Beginning at a 3/8" spike which bears South 1389.2 feet and West 667.1 feet from the North ¼ Corner, Section 1, Township 26 South, Range 21 East, SLM, and proceeding thence South 0°38' East 318.7 feet to a corner which bears 0.9 feet South and 0.1 feet East of a metal fence post; thence South 08° 09' West 77.4 feet to a cedar post; thence South 52°23' West 147.6 feet to a double cedar post; thence North 88° 06' West 58.5 feet to a cedar fence post; thence North 26° 04' West 156.1 feet to a cedar fence post; thence South 89° 45' West 43.2 feet to a cedar fence post; thence North 0°51' West 344.5 feet to a 3/8" spike; thence South 89° 47' East 299.7 feet to the point of beginning. Bearings based on the centerline of 100 West Street (N 0 deg 17' E). (Parcel No. 01-0001-0158)

LESS the following:

- a. Beginning at a point which bears South 1872.7 feet and West 819.6 feet from the North ¼ Corner of Section 1, Township 26 South, Range 21 East, SLM, and proceeding thence with the South line of the Davis Tract North 88°06' West 32.5 feet; thence North 26° West 25.8 feet; thence with the North Right of Way with the proposed Williams Way South 58°30' East 11.3 feet; thence with a curve to the left, the chord of which bears South 61°46' East 38.8 feet (Delta=6 degrees 33'05", Radius=339.25, Tangent=19.42 feet, Length=38.79) to the point of beginning.
- b. Any portion within Williams Way.

Exhibit B to Easement Agreement

LEGAL DESCRIPTION OF BENEFITTED PARCEL

PARCEL 1:

Beginning at a corner on the West right-of-way of 100 West Street, said corner bears North 169.1 feet; thence West 48.4 feet from the centerline monument at the intersection of 100 West and 100 North Streets, said point by record bears West 266.1 feet; thence South 1486.6 feet from the North quarter corner of Section 1, Township 26 South, Range 21 East, Salt Lake Meridian and proceeding thence with the West right of way of 100 West Street South 00°21' West 457.30 feet to a corner; thence North 85°27' West 147.70 feet to a corner; thence North 80°05' West 16.9 feet to a corner; thence North 87°53' West 33.5 feet to a corner; thence South 76°45' West 4.8 feet to a corner; thence North 79°06' West 9.0 feet to a corner; thence along the arc of a 1292.5 foot radius curve to the right 57.7 feet (described as 57.2 feet in some instruments of record) (said curve has a chord which bears North 80°23' West 57.7 feet) to a corner; thence North 63°01' East 54.70 feet to a corner; thence North 22°23' East 20.5 feet to a corner; thence North 00°08' West 58.7 feet to a corner; thence along a fence line South 88°43' West 244.6 feet to a corner; thence North 52°27' East 60.6 feet to a corner; thence North 08°13' East 77.4 feet to a corner; thence North 00°34' West 229.2 feet to a corner; thence along a fence line South 89°38' East 210.1 feet; thence along a fence line North 89°33' East 87.8 feet to a corner on the West line of Manzaneres; thence South 9.0 feet to the Southwest corner of Manzaneres; thence North 89°26' East 103.9 feet to the point of beginning.

LESS any portion within 100 West Street and/or Williams Way.

PARCEL 2:

Beginning at a point which bears South 1815.2 feet and West 480.4 feet from the North quarter corner of Section 1, Township 26 South, Range 21 East, Salt Lake Meridian and proceeding thence South 00°12' East 58.9 feet; thence South 22°19' West 20.5 feet; thence South 62°57' West 54.7 feet to the North right-of-way of Williams Way; thence with said right-of-way with a curve to the left 146.53 feet, the chord of which bears North 84°59' West 146.53 feet; thence North 88°14' West 4.2 feet; thence with curve to the right 108.3 feet, the chord of which bears North 79°55' West 108.3 feet; thence North 62°06' West 28.5 feet to the South line of Davis tract; thence with said tract South 88°06' East 26 feet; thence North 52°23' East 86.8 feet; thence North 88°43' East 244.6 feet to the point of beginning.

Exhibit C to Easement Agreement

LEGAL DESCRIPTION AND GENERAL DEPICTION OF EASEMENT AREA

An access and parking easement being more particularly described as:

Beginning at a point on the Grantor's boundary, said point being South 1815.20 feet and West 480.40 feet and South 88°43'00" West 244.60 feet and North 52°27'00" East 15.29 feet from the North Quarter corner of Section 1, Township 26 South, Range 21 East, Salt Lake Base and Meridian, and proceeding thence along a line being parallel and three feet behind existing parking curbing North 01°04'47" West 23.28 feet; thence with said curbing North 83°34'44" East 9.02 feet; thence North 00°29'31" West 53.02 feet; thence with a curve having a radius of 37.76 feet, to the right with an arc length of 32.69 feet, (a chord bearing of North 19°13'58" East 31.67 feet); thence North 44°03'33" East 23.83 feet; thence North 45°56'27" West 17.68 feet; thence North 44°58'51" East 34.09 feet to a point on Grantor's boundary; thence with said boundary South 00°34'00" East 56.41 feet; thence South 08°13'00" West 77.40 feet; thence South 52°27'00" West 45.40 feet to the point of beginning.

[See attached general depiction]

