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Gary W. Ott  
Recorder, Salt Lake County, UT  
FIRST AMERICAN NCS  
BY: eCASH, DEPUTY - EF 10 P.

**WHEN RECORDED RETURN TO:**

COLEBROS, LLC  
Attn: Steve Coleman  
5679 Naples Blvd.  
Naples, FL 34109

WITH A COPY TO:  
Suburban Land Reserve, Inc.  
Attn: David Cannon  
79 South Main, Suite 500  
Salt Lake City, UT 84111

NCS-618389  
APN: 07-35-476-002

Space above for Recorder's use only

**DRAINAGE EASEMENT AND MAINTENANCE AGREEMENT**

THIS DRAINAGE EASEMENT AND MAINTENANCE AGREEMENT (this "Agreement") is entered into this 30<sup>th</sup> day of October 2013, by and between SUBURBAN LAND RESERVE, INC., a Utah corporation ("Grantor"), and COLEBROS, LLC, a Florida limited liability company ("Grantee").

**RECITALS**

A. Grantor owns certain real property located in Salt Lake County, Utah (the "Grantor's Property") which property is more particularly described on Exhibit A attached hereto and incorporated herein.

B. Grantee desires to obtain a non-exclusive drainage easement (the "Easement") on, over, and across that portion of the Grantor's Property more particularly described in Exhibit B, and depicted in Exhibit C, both attached hereto and incorporated herein by this reference (the "Easement Area").

C. Grantee has purchased Lot 13 of the Bonneville Center (APN: 07-35-476-002), located at 190 North Apollo Road, Salt Lake City, Utah ("Grantee's Property") from the Grantor which property purchase requires the granting of the Easement so that the Grantee can construct a building on Grantee's Property.

D. Grantor is willing to convey the Easement to Grantee, and Grantee is willing to construct the aforementioned improvements on the Easement Area and permit Grantor to use the same, all subject to the terms and conditions set forth herein.

**TERMS AND CONDITIONS**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and based upon the mutual promises and subject to the conditions set forth below, the parties agree as follows:

1. **Grant of Easement/Use by Grantor.** Grantor hereby conveys to Grantee, a non-exclusive easement, over and across the Easement Area, for the purposes of installing, constructing, servicing, replacing and maintaining a pipeline and other necessary improvements and appurtenances for drainage and other related uses (collectively, the "**Improvements**"), and thereafter operating, maintaining, replacing, preserving, and using the same for drainage.

2. **Access.** Grantee and its agents, consultants, contractors and subcontractors (collectively, "**Grantee's Agents**") will have the right to enter upon the Easement Area for the purposes permitted by this Agreement. Grantee's Agents will enter upon the Easement Area at their sole risk and hazard. Grantee's Agents will enter upon the Easement Area from existing roads. Grantee and its successors and assigns, hereby release Grantor from any claims relating to the condition of the Easement Area, Grantor's Property and the entry upon the Easement Area and the Grantor's Property by Grantee and Grantee's Agents.

3. **Reservation by Grantor.** Grantor hereby reserves the right to use the Easement Area for any use not inconsistent with Grantee's permitted use of the Easement Area (including but not limited to the construction of hard surface parking over the Easement Area); provided however, that should Grantor damage the Improvements, Grantor will be responsible, at its sole cost, to repair the same to a condition that existed prior to such damage. Without limiting the above, Grantor reserves the right to relocate, or require the relocation of the Improvements and the Easement Area at any time at Grantor's cost and expense, provided that such relocation provides Grantee with comparable easement rights and functionality and such relocation terminates the use of the Easement in its prior location.

4. **Condition of the Easement Area.** Grantee accepts the Easement Area and all aspects thereof in "**AS IS**", "**WHERE IS**" **CONDITION, WITHOUT WARRANTIES**, either express or implied, "**WITH ALL FAULTS**", including but not limited to both latent and patent defects, and the existence of hazardous materials, if any. Grantee hereby waives all warranties, express or implied, regarding the, condition and use of the Easement Area, including, but not limited to any warranty of merchantability or fitness for a particular purpose.

5. **Construction of the Improvements/Use of Improvements by Grantor.** Grantee agrees to construct the Improvements at Grantee's sole cost and expense. The Improvements will be constructed by Grantee: (i) in a good and workmanlike manner and in accordance with industry standards and building codes in effect in Salt Lake County and Salt Lake City; and (ii) in compliance with all laws, rules, and ordinances respecting the construction. Construction of the Improvements must be completed no later than October 31, 2014. Grantee, at its sole cost and expense, will acquire all permits and governmental approvals required to drain water into the Little Goggin Canal, and Grantor does not represent or warrant to Grantee that such drainage is possible from an engineering or permitting standpoint. Grantor will have the right to connect into and use the Improvements for the benefit of the Grantor's Property, so long as such connection does not materially affect Grantee's storm water capacity and use of the

Improvements, and provided that Grantor will be responsible for all connection, design, construction, and costs.

6. **Maintenance/Restoration.** Grantee, at its sole cost and expense, shall maintain and repair the Improvements and the Easement Area in good order and condition. Grantee's maintenance of the Improvements and the Easement Area shall be in accordance with all laws, rules, and ordinances respecting such. Notwithstanding the foregoing, should Grantor connect into and use the Improvements pursuant to Section 5 above, Grantor and Grantee will share the costs to maintain and repair the Improvements, with Grantor being responsible for 67% of the costs and Grantee being responsible for 33% of the costs, which percentage is based on the acreage of the properties benefitted by the Improvements. Grantee will promptly repair any damage to Grantor's Property and Grantor's improvements located thereon (including, without limitation, any and all landscaping, trees, fences, water and/or irrigation pipes, lines and ditches, curbs, gutters, asphalt surfaces, fences, signs, lighting, etc.) caused by Grantee and/or Grantee's Agents, and will restore Grantor's Property and the improvements thereon to the same or better condition as existed prior to any entry onto or work performed on Grantor's Property by Grantee and Grantee's Agents, which restoration will include, but not be limited to, grading of Grantor's Property to the natural topography and re-vegetation of the Grantor's Property using natural vegetation.

7. **Termination.** This Agreement and the rights granted herein shall terminate if: (i) use of the Improvements is discontinued for a period of two (2) consecutive years; or (ii) Grantee is provided an alternative easement, pursuant to Section 3 hereof; or (iii) the parties mutually decide to terminate this Agreement and the Easement rights granted herein. Upon such termination of this Agreement and the Easement rights granted herein, Grantor shall have the right to record a Release of Easement instrument in the Official Records of Salt Lake County, Utah, thereby terminating all rights and interests of Grantee in the Grantor's Property pursuant to this Agreement. Should this Agreement terminate for any reason, Grantee and/or Grantee's Agents, will restore Grantor's Property and the improvements thereon to the same or better condition as existed prior to the use of Grantor's Property by Grantee, including, but not limited to, the proper removal of the Improvements, grading of Grantor's Property to the natural topography, and re-vegetation of the Grantor's Property using natural vegetation.

8. **Liens.** Grantee shall keep the Grantor's Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under Grantee, and shall indemnify, hold harmless and agree to defend Grantor from any liens that may be placed on the Grantor's Property pertaining to any work performed, materials furnished or obligations incurred by, through, for, or under Grantee or any of Grantee's Agents. Any such liens shall be released of record within thirty (30) days.

9. **Insurance.** Grantee will ensure that prior to Grantee or Grantee's Agents entering onto the Easement Area or the Grantor's Property, Grantee and all of Grantee's Agents and other such parties who assist with the construction, maintenance or use of the Easement Area, each obtain policies which, at a minimum, provide Grantor the protections set forth below. Grantee will ensure that prior to entering onto the Easement Area, Grantee's Agents are either

covered by Grantee's insurance or maintain coverage as set forth below, naming Grantor as an additional insured.

**9.1. Liability Insurance Coverage and Limits.** A commercial general liability insurance policy insuring Grantee's interests against claims for personal injury, bodily injury, death, property damage occurring on, in or about the Easement Area and the ways immediately adjoining the Easement Area, with a "Combined Single Limit" covering personal injury liability, bodily injury liability and property damage liability) of not less than Two Million Dollars (\$2,000,000.00). The coverage set forth above shall be primary coverage and shall apply specifically to the Easement Area, the Grantor's Property, and adjacent areas;

**9.2. Workers' Compensation Insurance.** All Workers' Compensation and Employers' Liability Insurance required under applicable Workers' Compensation Acts and/or applicable law; and

**9.3. Automobile Insurance.** Automobile Liability Insurance with a minimum limit of not less than One Million Dollars (\$1,000,000.00) Combined Single Limit per accident, and coverage applying to "Any Auto."

**10. Compliance with Laws.** Grantee will comply with all present or future laws, statutes, codes, acts, ordinances, rules, regulations, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, including, without limitation, any building, zoning, land use, and hazardous waste laws.

**11. Indemnification by Grantee.** Grantee and its successors and assigns hereby agree to indemnify, defend (with counsel acceptable to Grantor) and hold harmless Grantor, and any entity controlling, controlled by, or under control with Grantor ("Affiliates"), and its and their Affiliates' officers, directors, employees, managers, members, agents, servants, successors, and assigns from and against any and all liens, encumbrances, costs, demands, claims, judgments, and/or damage caused by or arising out of (i) the acts and omissions of Grantee and Grantee's Agents; (ii) the use of the Easement Area and/or the Improvements by Grantee or Grantee's Agents; and (iii) any work performed on the Easement Area or the Grantor's Property by Grantee or its successors or assigns, and their agents, servants, employees, consultants and/or contractors. The terms and conditions of this provision shall remain effective, notwithstanding the expiration or early termination of this Agreement. Provided that the Grantor's right to indemnification or to be held harmless by the Grantee under the terms of this paragraph is expressly conditioned upon reasonable notice by Grantor, to the Grantee of any claim or demand of which it has actual knowledge which would cause a claim for indemnification against the Grantee and upon the Grantee's right to defend any claim against the Grantors which would cause a claim of indemnification against the Grantee.

**12. Notices.** Any notice required or desired to be given under this Agreement shall be considered given either: (i) when delivered in person to the recipient named below, (ii) three (3) days after deposit in the United States mail in a sealed envelope or container, either registered

or certified mail, return receipt requested, postage prepaid, addressed by name to the person and party intended. All notices shall be given at the following addresses:

If to Grantor:

Suburban Land Reserve  
Attn: David Cannon  
Email: [djc@slreserve.com](mailto:djc@slreserve.com)  
79 S. Main Street, Suite 500  
Salt Lake City, UT 84111

With a Copy to:  
Kirton McConkie  
Attn: Robert C. Hyde  
50 E. South Temple  
Salt Lake City, UT 84111

If to Grantee:

Colebros, LLC  
Attn: Steve Coleman  
Email: [sdnaples@comcast.net](mailto:sdnaples@comcast.net)  
5679 Naples Blvd.  
Naples, FL 34109

With a Copy To:  
Bruce H. Shapiro, P.C.  
Attn: Bruce H. Shapiro  
145 East 400 South  
Salt Lake City, UT 84111

Either party may designate a different individual or address for notices, by giving written notice thereof in the manner described above.

**13. Run with the Land/Successors.** Subject to the terms and conditions of this Agreement, the Easement shall run with the land, and the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns.

**14. Enforceability and Litigation Expenses.** If any action, suit, or proceeding is brought by a party hereto with respect to a matter or matters covered by this Agreement or if a party finds it necessary to retain an attorney to enforce its rights under this Agreement, all costs and expenses of the prevailing party incident to such proceeding or retention, including reasonable attorneys' fees, shall be paid by the non-prevailing party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

**Grantor:** SUBURBAN LAND RESERVE, INC.,  
a Utah corporation

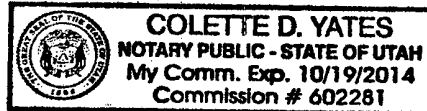
By: [Signature]  
Name (Print): Matt Baldwin  
Its: President

STATE OF UTAH )  
:ss  
COUNTY OF SALT LAKE )

*[Handwritten initials]*

On this 29<sup>th</sup> day of October, 2013, personally appeared before me Matt Baldwin, personally known to me to be the President of Suburban Land Reserve, Inc., a Utah corporation, who acknowledged before me that he signed the foregoing instrument as President for said corporation and that said corporation executed the same.

[Signature]  
Notary Public for Utah



**Grantee:**

COLEBROS, LLC,  
a Florida limited liability company

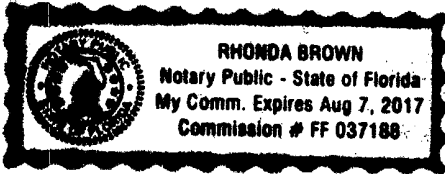
By: \_\_\_\_\_  
Name (Print): Stephen Colera  
Its: Manager

STATE OF FLORIDA        )  
  :SS  
COUNTY OF Collier        )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of October, 2013, by STEPHEN DAVID WENMAN, MGR for Colebros, LLC, a Florida limited liability company, and that he/she signed the foregoing instrument for said limited liability company and that said limited liability company executed the same.

Rhonda Brown  
Notary Public for ~~Utah~~ FLORIDA

Personally Known \_\_\_\_\_  
OR Produced Identification  \_\_\_\_\_  
Type of Identification Produced FL DL  
# C455-784-61-055-0



**EXHIBIT "A"**  
**TO**  
**DRAINAGE EASEMENT AND MAINTENANCE AGREEMENT**  
**LEGAL DESCRIPTION OF THE GRANTOR'S PROPERTY**

That certain real property located in Salt Lake County, Utah, specifically described as follows:

LOT 14, BONNEVILLE CENTER PLAT E, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.



**EXHIBIT "B"**  
**TO**  
**DRAINAGE EASEMENT AND MAINTENANCE AGREEMENT**

**LEGAL DESCRIPTION OF EASEMENT AREA**

Bonneville Center Lot 13 Plat E Storm Drain Easement

A 10 foot wide Storm Drain easement located in the Bonneville Center Plat 'E' Subdivision in the Southeast Quarter of Section 35, Township 1 North, Range 2 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the East Line of Lot 13, Bonneville Center Plat E, said point being North 37°40'12" West 32.14 feet along said East Lot line from the Southeast corner of said Lot 13; thence along the North line of that certain water line easement recorded in book 4882 page 1529 the following two courses 1) North 73°28'11" East 14.26 feet; and 2) North 82°26'47" East 246.33 feet to the East line of Lot 14 of said subdivision; thence North 2°33'10" East 229.91 feet along said East Lot line to the South line of the Little Goggin Drain as described in said Subdivision; thence North 43°28'12" West 13.89 feet along said Little Goggin Drain; thence South 2°33'10" West 231.18 feet; thence South 82°26'47" West 238.74 feet; thence South 73°28'11" West 18.91 feet to the East line of Lot 13 of said subdivision; thence South 37°40'12" East 10.72 feet along said East Lot line to the point of beginning.

Contains 0.112 Acres or 4895 square feet, more or less

*Ck by JJB 9 October 2013*

Exhibit B

4825-9228-6229.

**BK 10188 PG 8325**

