

MNT: 13474

When Recorded Mail to:

Shadow Mountain IV, Ltd  
 Attn: Gary L. Petersen  
 207 North Painted Hills Drive  
 Ivins, Utah 84738

10857247  
 12/11/2009 9:46:00 AM \$20.00  
 Book - 9787 Pg - 6009-6013  
 Gary W. Ott  
 Recorder, Salt Lake County, UT  
 METRO NATIONAL TITLE  
 BY: eCASH, DEPUTY - EF 5 P.

APN: 15-14-276-001; 002; 005; and 006

## GRANT OF EASEMENT AND RIGHT OF WAY

This GRANT OF EASEMENT AND RIGHT OF WAY has been executed on this 9<sup>th</sup> day of December 2009 by STATE OF UTAH, DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT of 4110 State Office Building, Salt Lake City, Utah 84114 as the "GRANTOR" and by SHADOW MOUNTAIN IV, LTD., a Utah limited partnership of 207 North Painted Hills Drive, Ivins, Utah 84738 as the "GRANTEE".

WHEREAS, By way of a Special Warranty Deed of even date herewith, Grantor has acquired from Grantee certain real property located in Salt Lake County, State of Utah that is more particularly described on the Exhibit "A" that is attached hereto and by this reference made a part hereof ( the "Grantor's Property").

WHEREAS, Grantee is the owner of certain real property which abuts the Grantor's Property on the North and East which is also located in Salt Lake County, State of Utah and that is more particularly described on the Exhibit "A" that is attached hereto and by this reference made a part hereof ( the "Grantee's Property").

WHEREAS, As a part of the transaction whereby Grantor acquired the Grantor's Property from Grantee, Grantee is to obtain an easement and right of way over and across a portion of the Grantor's Property for ingress and egress to and from 700 West Street and for utility access all for the benefit of the Grantee's Property. Grantor has agreed to grant such an easement and right of way upon certain terms and conditions.

THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration paid by one to the other the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants and agreements contained herein, Grantor and Grantee hereby agree as follows:

1. GRANT OF ACCESS EASEMENT. The Grantor hereby grants and conveys to the Grantee a perpetual, non-exclusive easement and right of way over and across a portion of the Grantors' Property that is more fully described on the Exhibit "A" that is attached hereto and by this reference made a part hereof (the "Easement Property") with full and free right of access for Grantee, its tenants, servants,

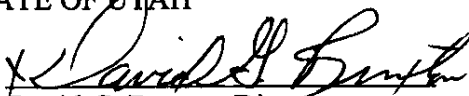
visitors and licensees, at all times hereafter with or without vehicles for the purpose of ingress and egress to and from 700 West Street to the Grantee's Property, and for no other purpose.

2. **GRANT OF UTILITY EASEMENT.** The Grantor hereby grants and conveys to the Grantee a perpetual, non-exclusive easement and right of way over and across a portion of the Easement Property for the purpose of providing for the subsurface installation, maintenance and replacement of public and/or private power, natural gas, water, storm drain, telephone, communication & fiber optic lines, and sanitary sewer utility lines to the Grantee's Property for use on the Grantee's Property, and for no other purpose.
3. **APPURTENANT.** It is understood and agreed that the easement and right of way granted herein shall be appurtenant to and shall run with the title to the Grantee's Property.
4. **CONSTRUCTION AND MAINTENANCE.** All costs associated with the construction upon the Easement Property of roadway and/or utility lines necessary for the development of the Grantor's Property shall be the sole responsibility of the Grantor. The Grantor shall be responsible for the maintenance and repair of the Easement Property and the improvements constructed by Grantor thereon and the costs associated therewith. Grantor shall also be responsible for property taxes and assessments that accrue against the Easement Property. Grantee shall be responsible for all maintenance and repair costs on the Easement Property resulting from the willful or negligent actions of Grantee, its tenants, servants, visitors and licensees.
5. **UTILITY CONNECTIONS.** Either Party shall have the right to connect to any public and/or private utility lines installed by the other Party located within the Easement Property at the connecting Party's sole cost and expense. The connecting Party shall be responsible for any and all connection fees including any increase in capacity necessary to accommodate the connecting Party's connection to said utility line and increased use of the utility line including the costs of materials and labor, related to the excess, and any and all connection and/or inspection fees charged by the respected utility provider at the time of connection. Immediately following any such utility work by the connecting Party, the connecting Party, at its sole cost and expense, shall repair and return the surface of the Easement Property to the condition existing prior to the commencement of such utility work.
6. **INDEMNIFICATION.** The Grantor and Grantee agree to protect, indemnify and save harmless the other, their successors and assigns from and against any and all liability, loss, cost, damage, expense and claims of every kind and nature due to injury or death of any person or loss of or damage to any property whatsoever, arising directly or indirectly out of or incident to the use of the Easement Property by the respective parties.

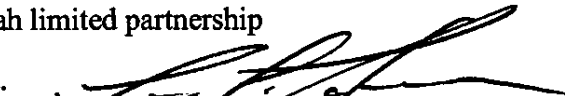
7. NO INTERFERENCE. At all times, the Easement Property shall be kept free and open and neither Grantor nor Grantee shall prohibit or attempt to prohibit the use of the Easement Property by the other party for the purposes herein described. No improvements, barriers, structures or other obstructions shall be placed, installed, constructed or located on the Easement Property which shall prevent or interfere with the use of the Easement Property as contemplated herein. Grantee further agrees that it will exercise its rights hereunder in such a way that all construction and installation activities in pursuance thereof are expeditiously pursued to completion and are performed in such a manner as to minimize any interference with Grantor's use of its property, or the normal operation of any business conducted thereon. Prior to commencing with any construction activity on the Easement Property, Grantee shall notify Grantor of its intentions and present to Grantor a detailed construction schedule and plan. No provisions in this Easement shall be interpreted or construed to waive the rights of Grantor to the affirmative defenses to claims provided under the Utah Governmental Immunity Act.
8. SUCCESSORS AND ASSIGNS. The easement and right of way created hereby and the terms hereof shall inure to the benefit of and shall be binding upon the Grantors and the Grantee and their respective heirs, personal representatives, successors and/or assigns.

IN WITNESS WHEREOF, the Grantor and Grantee have executed this Agreement in Salt Lake City, Utah on the day and year first written above.

GRANTOR: STATE OF UTAH

By:   
David G. Buxton, Director  
Division of Facilities Construction  
and Management

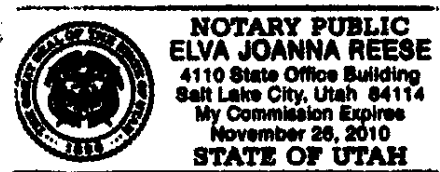
GRANTEE: SHADOW MOUNTAIN IV, LTD., a  
Utah limited partnership

By:   
Gary L. Petersen, General Partner

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

On the 9 day of December 2009, personally appeared before me DAVID G. BUXTON, a signer of the foregoing instrument who duly acknowledged to me that he executed the same in his capacity as the Director of Division of Facilities Construction and Management for the State of Utah.

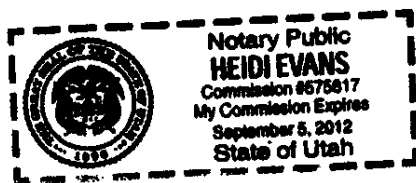
Elva Joanna Reese  
NOTARY PUBLIC



STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

On the 20<sup>th</sup> day of NOVEMBER 2009, personally appeared before me GARY L. PETERSEN, a signer of the foregoing instrument, who duly acknowledged to me that he executed the same in his capacity as the General Partner of Shadow Mountain IV, LTD., a Utah limited partnership and who further acknowledged that said limited partnership executed the same.

Heidi Evans  
NOTARY PUBLIC



**EXHIBIT A**

**GRANTOR'S PROPERTY**

Lot 3, Shadow Mountain Minor Subdivision, according to the official plat recorded in the office of the Salt Lake County Recorder on December 7, 2009 as Entry No. 10852605, in Book 2009, at Page 176.

**GRANTEE'S PROPERTY**

Lots 1 and 2, Shadow Mountain Minor Subdivision, according to the official plat recorded in the office of the Salt Lake County Recorder on December 7, 2009 as Entry No. 10852605, in Book 2009, at Page 176.

**EASEMENT PROPERTY**

A portion of Lot 3, Shadow Mountain Minor Subdivision, according to the official plat recorded in the office of the Salt Lake County Recorder on December 7, 2009 as Entry No. 10852605, in Book 2009, at Page 176, and further described as follows:

BEGINNING AT A POINT ON THE WESTERLY LINE OF 700 WEST STREET, A POINT SOUTH 00°10'28" WEST 96.57 FEET FROM THE NORTHEAST CORNER OF LOT 19, BLOCK 5, 5 ACRE PLAT "B", SAID POINT ALSO BEING NORTH 0°0'55" WEST 798.42 FEET AND WEST 29.17 FEET FROM THE PI MONUMENT AT THE INTERSECTION OF 1700 SOUTH STREET AND 700 WEST STREET AND SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 3, SHADOW MOUNTAIN MINOR SUBDIVISION, AND RUNNING THENCE SOUTH 89°44'35" WEST 541.38 FEET ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 3; THENCE NORTH 00°10'28" EAST 66.00 FEET TO THE SOUTHWEST CORNER OF LOT 2, SHADOW MOUNTAIN MINOR SUBDIVISION; THENCE NORTH 89°44'35" EAST 541.37 FEET ALONG THE COMMON BOUNDARY LINE OF SAID LOTS 2 AND 3 TO THE WESTERLY LINE OF 700 WEST STREET; THENCE SOUTH 00°10'28" WEST 66.00 FEET ALONG SAID WESTERLY LINE TO THE POINT OF BEGINNING.