

When Recorded, Mail To:

City of Saratoga Springs
Attn: City Recorder
1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045



ENT 112714:2022 PG 1 of 11
ANDREA ALLEN
UTAH COUNTY RECORDER
2022 Oct 25 10:11 am FEE 0.00 BY KR
RECORDED FOR SARATOGA SPRINGS

(Space Above for Recorder's Use Only)

TEMPORARY ACCESS AND UTILITY EASEMENT AND AGREEMENT

This TEMPORARY ACCESS AND UTILITY EASEMENT AND AGREEMENT (this "Agreement") is made and entered into effective as of the 24 day of October, 2022 (the "Effective Date"), by and between TOLL SOUTHWEST LLC, a Delaware limited liability company ("Grantor"), EDGE HOMES UTAH, LLC, a Utah limited liability company ("Developer"), and the CITY OF SARATOGA SPRINGS, a Utah municipal corporation ("Grantee").

RECITALS

A. Grantor is the owner of that certain real property located in the City of Saratoga Springs, Utah County, Utah (the "Grantor Property").

B. Developer is constructing the Wildflower Village 4 Plat J-3 project in the City and desires the right to construct utilities on Grantor's Property as necessary to meet the utility needs of Developer's project and the construction standards of Grantee.

C. Grantee and Developer desire to obtain and Grantor is willing to convey a temporary access and utility easement over the Grantor Property subject to the terms and conditions of this Agreement to terminate automatically as provided herein.

D. "Utilities" or "utility" are defined herein to include all utility facilities, lines, conduits, pipes, channels, ponds, ditches, valves, structures, boxes, and other similar transmission and distribution structures and facilities, and all related appurtenances owned and operated by Grantee for the provision of services such as water, secondary water, irrigation water, drinking water, culinary water, storm drainage, storm sewer, sanitary sewer, and sewer.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

TERMS AND CONDITIONS

1. **Grant of Easement.** Grantor does hereby convey, without warranty, unto Grantee, a temporary access and utility easement (the "Temporary Access and Utility Easement") under

and across that portion of the Grantor Property more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by this reference (the “**Temporary Utility Easement Area**”).

Grantor shall ensure, guarantee, and warrant that no other easements or licenses shall be granted to any other person or entity on, over, or under the Temporary Utility Easement Area and that no above or below ground improvements, buildings, or facilities of any kind shall be constructed or maintained on the Temporary Utility Easement Area, except as otherwise approved by Grantee in writing. Grantor acknowledges and agrees that the Facilities will be constructed by Developer, and then dedicated to Grantee upon acceptance in writing by Grantee.

Grantor reserves and shall have the right to dedicate, including through a subdivision plat affecting Grantor’s Land, or convey the Temporary Utility Easement Area to Grantee or an entity that will maintain the Temporary Utility Easement Area and Utilities.

2. **Access.** Developer and Grantee and their agents, servants, employees, consultants, contractors and subcontractors shall have the right to enter upon the Temporary Utility Easement Area solely for the purposes permitted by this Agreement. Developer shall enter upon the Temporary Utility Easement Area at its sole risk and hazard, and Developer hereby releases Grantor from any and all claims relating to the condition of the Temporary Utility Easement Area and the entry upon the Temporary Utility Easement Area by Developer. Grantee shall enter upon the Temporary Utility Easement Area at its sole risk and hazard, and Grantee hereby releases Grantor from any and all claims relating to the condition of the Temporary Utility Easement Area and the entry upon the Temporary Utility Easement Area by Grantee.

3. **Purposes of the Utility Easement.** The purpose of this Temporary Access and Utility Easement is to allow the construction of the Utilities by Developer and its successors, assigns, and agents in order to meet Grantee’s development standards for the subdivision and development and to allow Grantee the ability to maintain, repair, and replace the Utilities after Grantee’s acceptance in writing. Developer or its successors, associates, assigns, and agents shall be responsible for the proper and timely construction and installation of the Utility Improvements per Grantee’s standards. Upon the proper and timely construction of the Utilities by Developer and acceptance in writing by Grantee per Grantee’s development standards, Grantee, at its sole cost and expense, shall maintain the Utility Improvements in good order and condition, except for repair of the Utilities during the 1-year warranty period per Grantee’s development standards, during which time the Utilities shall be maintained and repaired by the Developer. Grantee shall also have the right to repair, replace, restore, and relocate the Utilities within the Temporary Utility Easement Area.

In performing the work permitted by this Agreement, Developer and Grantee respectively shall restore the Grantor’s Property to the same condition prior to Developer or Grantee’s entry respectively. Notwithstanding the obligations of this Section 5, Grantor recognizes that the nature of the utility improvements may result in the inability of Developer and Grantee to fully restore the Grantor Property. So long as Developer or Grantee respectively uses its best efforts to fully restore Grantor Property, Grantor waives the right to require strict performance of Grantee’s or Developer’s respective restoration requirements under this paragraph.

4. **Duration and Automatic Termination.** This easement shall automatically terminate without the need of recording any additional instruments upon the dedication of the Utility Easement Area and Utilities to, and acceptance of the Temporary Utility Easement Area and Utilities by, Grantee or a public entity or agency that will maintain the Temporary Utility Easement Area and Utilities, or the conveyance of the Temporary Utility Easement Area and Utilities to a homeowners association that will maintain the Temporary Utility Easement Area and Utilities.

5. **Notices.** All notices, demands, statements, and requests (collectively, the “**Notice**”) required or permitted to be given under this Agreement must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the Party to whom the notice is addressed or if such Party is not available the date such notice is left at the address of the Party to whom it is directed, (ii) two business days after the notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt requested, (iii) on the date the notice is delivered by a courier service (including Federal Express, Express Mail, Lone Star or similar operation) to the address of the Party to whom it is directed, provided it is sent prepaid, return receipt requested, or (iv) on the date the notice is sent by electronic mail with both a delivery and read receipt received by the sender. The addresses of the signatories to this Agreement are set forth below:

If to Grantor: TOLL SOUTHWEST, LLC
ATTN: Dylan Young
38 E Scenic Pointe Dr. Suite 100
Draper, UT 84020
dyoung@tollbrothers.com

If to Developer: Edge Homes Utah, LLC
ATTN: Paxton Guymon
13702 S 200 W #B12
Draper, UT 84020
pguymon@edgehomes.com

If to Grantee: Jeremey Lapin
Public Works Director
1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045
jlapin@saratogaspringscity.com

With a copy to: Kevin Thurman
City Attorney
1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045
kthurman@saratogaspringscity.com

6. **Miscellaneous.**

6.1. **Binding Effect.** Except as expressly stated herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, as well as the successors and assigns of such Persons.

6.2. **Partial Invalidity.** If any term, covenant or condition of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the extent permitted by law.

6.3. **Captions.** The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants or conditions contained herein.

6.4. **Gender.** In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

6.5. **Relationship of the Parties.** Nothing contained herein shall be construed to make the parties hereto partners or joint venturers, or render any of such parties liable for the debts or obligations of the other party hereto.

6.6. **Amendment.** This Agreement may be canceled, changed, modified or amended in whole or in part only by the written and recorded agreement of the Parties or their successor and assigns (as determined by the provisions herein).

6.7. **Counterparts.** This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute but one Agreement.


6.8. **Attorney Fees.** In the event any legal action or proceeding for the enforcement of any right or obligations herein contained is commenced, the prevailing party in such action or proceeding shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

6.9. **Successors and Assigns and Assignment.** This easement grant shall be binding upon, and inure to the benefit of, the successors and assigns of the Grantor and the successors and assigns of the Grantee, and may be assigned in whole or in part by Grantee to an entity that will maintain or construct the Temporary Utility Easement Area and Utilities.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date to terminate as herein provided.

GRANTOR:

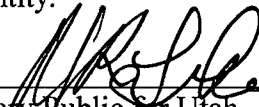
TOLL SOUTHWEST, LLC,
a Delaware limited liability company

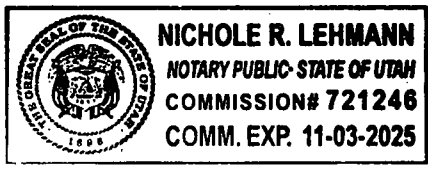
By: 
Name: BEN CULLEN BENJAMIN CULLEN
Title: VP TOLL SOUTHWEST LLC

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

Before me, Nichole R. Lehmann, of the state and county aforesaid personally appeared Benjamin Cullen, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the VICE PRESIDENT of Toll Southwest, a Utah corporation/limited liability company/partnership, and that he/she as such, being authorized so to do, executed the foregoing instrument on behalf of the entity.

My Commission Expires: 11/3/2025


Notary Public for Utah



[Signature and acknowledgment to follow]

DEVELOPER:

EDGE HOMES UTAH, LLC,
a Utah corporation/limited liability company

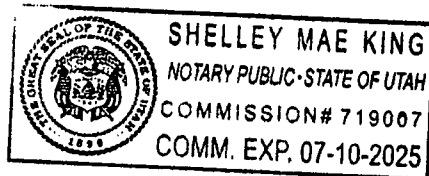
By: *Steve Maddox*
Name: *Steve Maddox*
Title: *Manager*

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

Before me, *Shelley King*, of the state and county aforesaid personally appeared *Steve Maddox*, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the *Manager* of *Edge Homes Utah* a Utah corporation/limited liability company/partnership, and that he/she as such, being authorized so to do, executed the foregoing instrument on behalf of the entity.

My Commission Expires:


Shelley King
Notary Public for Utah



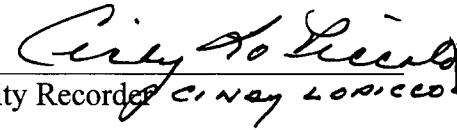
[Signature and acknowledgment to follow]

GRANTEE:

City of Saratoga Springs, a Utah municipal corporation


City Manager MARK J. CHRISTENSEN

ATTEST:


City Recorder C. NAY LORICCO

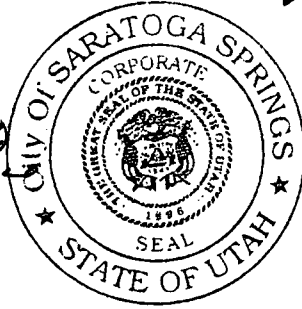


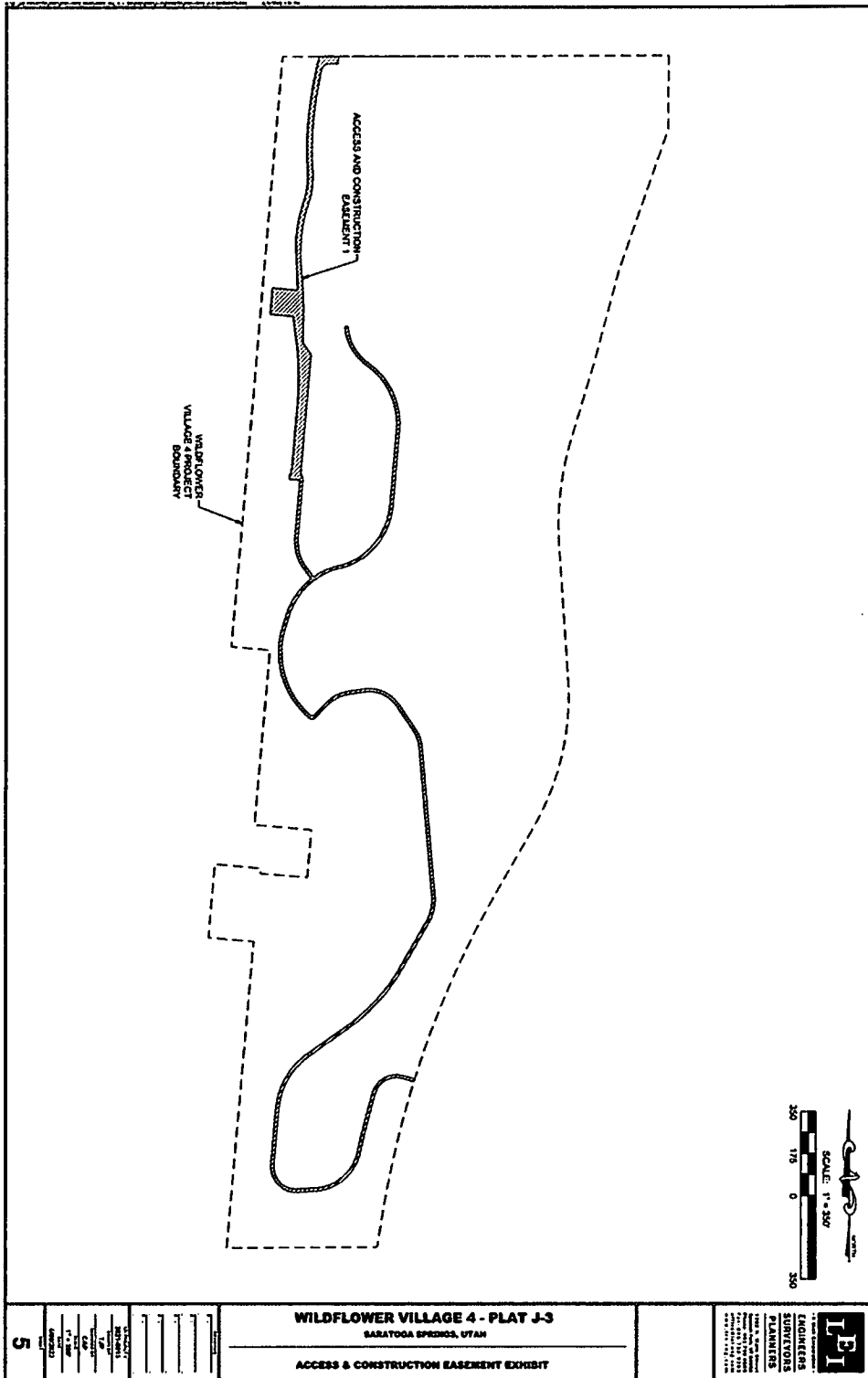
EXHIBIT A

A portion of the Northwest Quarter and the Southwest Quarter of Section 3, and the Northwest Quarter of Section 10, Township 5 South, Range 1 West, Salt Lake Base and Meridian, described as follows:

Beginning at the Westerly Right-of-Way line of the Mountain View Corridor, being a point located N89°32'24"W along the Section Line 1089.99 feet and South 276.19 feet from the South Quarter Corner of Section 3, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence along said Westerly Right-of-Way line along the arc of a non-tangent curve to the left 12.00 feet with a radius of 4000.00 feet through a central angle of 00°10'19", chord: S17°41'24"W 12.00 feet; thence along the arc of a non-tangent curve to the left 53.85 feet with a radius of 994.00 feet through a central angle of 03°06'15", chord: N74°09'55"W 53.85 feet; thence along the arc of a curve to the left 144.42 feet with a radius of 94.00 feet through a central angle of 88°01'47", chord: S60°16'03"W 130.63 feet; thence along the arc of a curve to the left 254.30 feet with a radius of 4143.50 feet through a central angle of 03°30'59", chord: S14°29'40"W 254.26 feet to a point of reverse curve; thence along the arc of a curve to the right 266.09 feet with a radius of 206.00 feet through a central angle of 74°00'35", chord: S49°44'28"W 247.98 feet; thence S86°44'46"W 79.19 feet; thence along the arc of a curve to the right 181.87 feet with a radius of 106.00 feet through a central angle of 98°18'18", chord: N44°06'05"W 160.37 feet; thence N05°03'04"E 235.40 feet; thence along the arc of a curve to the right 268.43 feet with a radius of 306.00 feet through a central angle of 50°15'43", chord: N30°10'55"E 259.91 feet; thence N55°18'46"E 200.32 feet; thence along the arc of a curve to the left 347.39 feet with a radius of 794.00 feet through a central angle of 25°04'04", chord: N42°46'44"E 344.62 feet; thence N30°14'42"E 215.91 feet; thence along the arc of a curve to the left 119.64 feet with a radius of 194.00 feet through a central angle of 35°20'04", chord: N12°34'40"E 117.75 feet; thence N05°05'22"W 621.93 feet; thence along the arc of a curve to the left 73.66 feet with a radius of 144.00 feet through a central angle of 29°18'30", chord: N19°44'37"W 72.86 feet; thence N34°23'52"W 124.96 feet; thence along the arc of a curve to the left 161.65 feet with a radius of 144.00 feet through a central angle of 64°19'10", chord: N66°33'27"W 153.30 feet; thence S81°16'58"W 71.12 feet; thence along the arc of a curve to the left 93.57 feet with a radius of 144.00 feet through a central angle of 37°13'44", chord: S62°40'06"W 91.93 feet; thence S44°03'14"W 74.06 feet; thence along the arc of a curve to the right 37.70 feet with a radius of 24.00 feet through a central angle of 90°00'00", chord: S89°03'14"W 33.94 feet; thence N45°56'46"W 24.41 feet; thence along the arc of a curve to the right 396.41 feet with a radius of 356.00 feet through a central angle of 63°47'56", chord: N14°02'48"W 376.24 feet; thence N17°51'10"E 53.00 feet; thence along the arc of a curve to the right 184.51 feet with a radius of 306.00 feet through a central angle of 34°32'54", chord: N35°07'37"E 181.73 feet; thence N36°28'32"W 49.00 feet; thence along the arc of a curve to the right 149.30 feet with a radius of 206.00 feet through a central angle of 41°31'35", chord: N15°42'44"W 146.06 feet; thence N05°03'04"E 229.39 feet; thence along the arc of a curve to the left 5.25 feet with a radius of 44.00 feet through a central angle of 06°50'00", chord: N01°38'04"E 5.24 feet; thence N84°56'56"W 45.75 feet; thence along the arc of a non-tangent curve to the right 17.83 feet with a radius of 75.50 feet through a central angle of 13°32'02", chord: N11°49'05"E 17.79 feet to a point of reverse curve; thence along the arc of a curve to the left 46.53 feet with a radius of 197.00 feet through a central angle of 13°32'02", chord: N11°49'05"E 46.43 feet; thence N05°03'04"E 241.81 feet; thence along the arc of a curve to the left 230.05 feet with a radius of 1316.51 feet through a central angle of 10°00'44", chord: N00°02'42"E 229.76 feet; thence N07°09'10"W 141.90 feet; thence N84°56'56"W 98.35 feet; thence N05°03'04"E 109.15 feet;

thence S84°56'56"E 107.42 feet; thence N01°58'55"W 212.48 feet; thence along the arc of a non-tangent curve to the right 164.77 feet with a radius of 658.03 feet through a central angle of 14°20'49", chord: N12°13'28"E 164.34 feet to a point of reverse curve; thence along the arc of a curve to the left 120.56 feet with a radius of 288.00 feet through a central angle of 23°59'05", chord: N07°24'20"E 119.68 feet to a point of reverse curve; along the arc of a curve to the right 122.21 feet with a radius of 1074.28 feet through a central angle of 06°31'04", chord: N01°19'40"W 122.14 feet; thence N01°55'52"E 10.60 feet; thence along the arc of a curve to the right 118.50 feet with a radius of 1438.58 feet through a central angle of 04°43'10", chord: N04°17'27"E 118.47 feet; thence along the arc of a non-tangent curve to the right 228.86 feet with a radius of 1744.00 feet through a central angle of 07°31'07", chord: N10°44'20"E 228.70 feet; thence N89°52'43"E 82.81 feet; thence S05°03'04"W 30.04 feet; thence S89°53'17"W 38.99 feet; thence along the arc of a curve to the left 44.98 feet with a radius of 33.42 feet through a central angle of 77°07'01", chord: S51°19'46"W 41.66 feet; thence along the arc of a curve to the left 174.04 feet with a radius of 1722.43 feet through a central angle of 05°47'22", chord: S09°52'35"W 173.97 feet; thence along the arc of a non-tangent curve to the left 116.66 feet with a radius of 1417.01 feet through a central angle of 04°43'01", chord: S04°17'23"W 116.63 feet; thence S01°55'52"W 10.60 feet; thence along the arc of a curve to the left 119.75 feet with a radius of 1052.71 feet through a central angle of 06°31'04", chord: S01°19'40"E 119.69 feet to a point of reverse curve; thence along the arc of a curve to the right 129.59 feet with a radius of 309.57 feet through a central angle of 23°59'05", chord: S07°24'20"W 128.65 feet to a point of reverse curve; thence along the arc of a curve to the left 292.86 feet with a radius of 636.46 feet through a central angle of 26°21'49", chord: S06°12'58"W 290.28 feet; thence S06°57'56"E 28.86 feet; thence S02°36'00"E 113.49 feet; thence S00°57'55"W 153.21 feet; thence S36°18'48"E 58.16 feet; thence S05°03'04"W 494.75 feet; thence along the arc of a non-tangent curve to the right 36.53 feet with a radius of 56.00 feet through a central angle of 37°22'42", chord: S13°38'18"E 35.89 feet; thence S05°03'04"W 229.39 feet; thence along the arc of a curve to the left 140.61 feet with a radius of 194.00 feet through a central angle of 41°31'35", chord: S15°42'44"E 137.55 feet; thence S36°28'32"E 49.00 feet; thence along the arc of a non-tangent curve to the right 115.18 feet with a radius of 306.00 feet through a central angle of 21°34'01", chord: N65°25'53"E 114.50 feet to a point of reverse curve; thence along the arc of a curve to the left 365.16 feet with a radius of 294.00 feet through a central angle of 71°09'50", chord: N40°37'59"E 342.14 feet; thence N05°03'04"E 307.50 feet; thence along the arc of a curve to the left 313.95 feet with a radius of 294.00 feet through a central angle of 61°11'02", chord: N25°32'27"W 299.25 feet to a point of reverse curve; thence along the arc of a curve to the right 190.28 feet with a radius of 206.00 feet through a central angle of 52°55'25", chord: N29°40'16"W 183.59 feet; thence N86°47'27"E 12.00 feet; thence along the arc of a non-tangent curve to the left 179.20 feet with a radius of 194.00 feet through a central angle of 52°55'25", chord: S29°40'16"E 172.89 feet to a point of reverse curve; thence along the arc of a curve to the right 326.77 feet with a radius of 306.00 feet through a central angle of 61°11'02", chord: S25°32'27"E 311.46 feet; thence S05°03'04"W 307.50 feet; thence along the arc of a curve to the right 380.07 feet with a radius of 306.00 feet through a central angle of 71°09'50", chord: S40°37'59"W 356.10 feet to a point of reverse curve; thence along the arc of a curve to the left 299.47 feet with a radius of 294.00 feet through a central angle of 58°21'43", chord: S47°02'02"W 286.69 feet; thence S17°51'10"W 53.00 feet; thence along the arc of a curve to the left 383.04 feet with a radius of 344.00 feet through a central angle of 63°47'56", chord: S14°02'48"E 363.56 feet; thence S45°56'46"E 24.41 feet; thence along the arc of a curve to the left 18.85 feet with a radius of 12.00 feet through a central angle of 90°00'00", chord: N89°03'14"E

16.97 feet; thence N44°03'14"E 74.06 feet; thence along the arc of a curve to the right 101.36 feet with a radius of 156.00 feet through a central angle of 37°13'44", chord: N62°40'06"E 99.59 feet; thence N81°16'58"E 71.12 feet; thence along the arc of a curve to the right 175.12 feet with a radius of 156.00 feet through a central angle of 64°19'10", chord: S66°33'27"E 166.07 feet; thence S34°23'52"E 124.96 feet; thence along the arc of a curve to the right 79.80 feet with a radius of 156.00 feet through a central angle of 29°18'30", chord: S19°44'37"E 78.93 feet; thence S05°05'22"E 621.93 feet; thence along the arc of a curve to the right 127.04 feet with a radius of 206.00 feet through a central angle of 35°20'04", chord: S12°34'40"W 125.04 feet; thence S30°14'42"W 215.91 feet; thence along the arc of a curve to the right 352.64 feet with a radius of 806.00 feet through a central angle of 25°04'04", chord: S42°46'44"W 349.83 feet; thence S55°18'46"W 200.32 feet; thence along the arc of a curve to the left 257.91 feet with a radius of 294.00 feet through a central angle of 50°15'42", chord: S30°10'55"W 249.72 feet; thence S05°03'04"W 235.40 feet; thence along the arc of a curve to the left 161.28 feet with a radius of 94.00 feet through a central angle of 98°18'18", chord: S44°06'05"E 142.21 feet; thence N86°44'46"E 79.19 feet; thence along the arc of a curve to the left 250.59 feet with a radius of 194.00 feet through a central angle of 74°00'35", chord: N49°44'28"E 233.53 feet to a point of reverse curve; thence along the arc of a curve to the right 255.03 feet with a radius of 4155.50 feet through a central angle of 03°30'59", chord: N14°29'40"E 254.99 feet; thence along the arc of a curve to the right 162.86 feet with a radius of 106.00 feet through a central angle of 88°01'47", chord: N60°16'03"E 147.31 feet; thence along the arc of a curve to the right 54.57 feet with a radius of 1006.00 feet through a central angle of 03°06'28", chord: S74°09'49"E 54.56 feet to the point of beginning.



WILDFLOWER VILLAGE 4 - PLAT J-3
SARATOGA SPRINGS, UTAH
ACCESS & CONSTRUCTION EASEMENT EXHIBIT

ET
ENGINEERS
SURVEYORS
PLANNERS
1000 N. 1000 West
Saratoga Springs, UT 84055
PHONE: 435.852.1234
WWW.ETENGINEERS.COM

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DATE
BY
REVISION
NO.
DATE
DESCRIPTION